



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2021

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
27	Friday, June 11, 2021	June 30, 2021
1	Wednesday, June 23, 2021	July 14, 2021
2	Friday, July 9, 2021	July 28, 2021

PLEASE NOTE:

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 8, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705. For more information, contact Jack Ewing at Jack.Ewing@legis.iowa.gov. The following rules will be reviewed:

NOTE: See also Agenda published in the May 19, 2021, Iowa Administrative Bulletin.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Federal Wholesome Meat Act regulations—adoption by reference, amendments to ch 76

Notice **ARC 5652C** 6/2/21

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Broadband—infrastructure, targeted service areas, grants program, 20.1 to 20.5, 22.1, 22.2,

22.4 to 22.7 Notice **ARC 5657C**..... 6/2/21

Broadband—infrastructure, targeted service areas, grants program, 20.1 to 20.5, 22.1, 22.2,

22.4 to 22.7 Filed Emergency **ARC 5658C** 6/2/21

ECONOMIC DEVELOPMENT AUTHORITY[261]

Enhance Iowa Board—waivers, amendments to ch 213 Filed **ARC 5644C**..... 6/2/21

EDUCATION DEPARTMENT[281]

Organization and operation, 1.4(1) Filed **ARC 5645C** 6/2/21

Procedures and petitions for rule making, 2.7(3), 2.12(2), 2.17(3), 2.18 to 2.20 Filed **ARC 5646C**..... 6/2/21

Waivers, amendments to ch 4 Filed **ARC 5647C**..... 6/2/21

Open enrollment of special education students, 17.6(3), 17.11 Filed **ARC 5651C**..... 6/2/21

Senior year plus program—student eligibility, Internet-based coursework, review of

proposals, 22.2(2)“b,” 22.28, 22.33(3)“c” Notice **ARC 5661C**..... 6/2/21

Terminology, amendments to chs 31, 41, 56, 120 Notice **ARC 5664C**..... 6/2/21

Regional planning partnerships—funding, governance, 46.9(1)“a,” 46.10 Notice **ARC 5662C** 6/2/21

Work-based learning programs, amendments to ch 48 Filed **ARC 5649C** 6/2/21

Supplementary weighting—English language learners, 60.6 Filed **ARC 5648C**..... 6/2/21

Definition of dyslexia, 62.6(3)“a” Notice **ARC 5663C**..... 6/2/21

Financial management of categorical funding—custodial funds, 98.101 Filed **ARC 5650C** 6/2/21

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Deaf and hard-of-hearing persons—terminology, 13.28(25)“b,” 14.2, 16.2(1), 27.3 Notice **ARC 5666C**..... 6/2/21

Licensure, amendments to chs 13, 15, 16, 18, 20, 22, 24, 27 Notice **ARC 5665C** 6/2/21

Statements of professional recognition—behavior analysts, mental health professionals,

16.1(1), 16.9, 16.10 Notice **ARC 5667C**..... 6/2/21

INSPECTIONS AND APPEALS DEPARTMENT[481]

Removal of hospital licensing board, 6.2, 6.11(1) Filed **ARC 5670C** 6/2/21

Consumable hemp products—unit of measurement for residual solvent limits, 32.3(2)“b”

Filed **ARC 5671C**..... 6/2/21

IOWA FINANCE AUTHORITY[265]

Authority board—voting members, 1.3(2) Filed **ARC 5643C** 6/2/21

Waivers, 11.2, 18.1, 18.4, 18.6, 18.12, 18.13 Filed **ARC 5642C** 6/2/21

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Standards of practice—medical cannabidiol, 13.15(1) Notice **ARC 5668C**..... 6/2/21

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Optometrists—use of injectables, 182.5 to 182.7 Filed **ARC 5672C**..... 6/2/21

PUBLIC SAFETY DEPARTMENT[661]

Waivers, 10.222, 401.113 Notice **ARC 5654C**..... 6/2/21

REVENUE DEPARTMENT[701]

Sales tax exemption—computer peripherals; citations, amendments to chs 18, 230 Notice **ARC 5659C** 6/2/21

Honey Creek premier destination park bonds, 40.3 Filed **ARC 5673C**..... 6/2/21

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Waivers, 4.14 <u>Notice</u> ARC 5653C	6/2/21
Waivers, 4.15 <u>Notice</u> ARC 5655C	6/2/21
Iowa veterans home, amendments to ch 10 <u>Notice</u> ARC 5660C	6/2/21

VETERINARY MEDICINE BOARD[811]

Licensure by verification, 1.4, 6.6 to 6.8 <u>Filed</u> ARC 5638C	6/2/21
Licensure by verification—application fee, 6.2 <u>Filed</u> ARC 5641C	6/2/21
Registration as veterinary technician by verification, 8.11 <u>Filed</u> ARC 5639C	6/2/21
Principles of veterinary medical ethics, 10.6 <u>Notice</u> ARC 5669C	6/2/21
Prescribing and dispensing a drug directly to a client, 12.3(1) <u>Filed</u> ARC 5640C	6/2/21
Waivers, amendments to ch 14 <u>Notice</u> ARC 5656C	6/2/21

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Waylon Brown
2415 Highway 218
Osage, Iowa 50461

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

Senator Jesse Green
2344 360th Street
Harcourt, Iowa 50544

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

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

Representative Amy Nielsen
North Liberty, Iowa

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

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

Senator Zach Whiting
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NOTE: See also the Advisory Notice on page 2887.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Federal Wholesome Meat Act regulations—adoption by reference, amendments to ch 76 IAB 6/2/21 ARC 5652C	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa Via conference call: 866.685.1580 Access code: 515 281 3950#	June 23, 2021 10 to 11 a.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Licensure, amendments to chs 13, 15, 16, 18, 20, 22, 24, 27 IAB 6/2/21 ARC 5665C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	June 23, 2021 1 p.m.
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Deaf and hard-of-hearing persons—terminology, 13.28(25)“b,” 14.2, 16.2(1), 27.3 IAB 6/2/21 ARC 5666C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	June 23, 2021 1 p.m.
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Statements of professional recognition—behavior analysts, mental health professionals, 16.1(1), 16.9, 16.10 IAB 6/2/21 ARC 5667C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	June 23, 2021 1 p.m.
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EDUCATION DEPARTMENT[281]

Senior year plus program—student eligibility, Internet-based coursework, review of proposals, 22.2(2)“b,” 22.28, 22.33(3)“c” IAB 6/2/21 ARC 5661C	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: doe.zoom.us/j/95251915764?pwd=Y3ZFajcvNlVoNDQyVTJRanFaZW1YZz09	June 22, 2021 8 to 8:30 a.m.
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Terminology, amendments to chs 31, 41, 56, 120 IAB 6/2/21 ARC 5664C	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: doe.zoom.us/j/95251915764?pwd=Y3ZFajcvNlVoNDQyVTJRanFaZW1YZz09	June 22, 2021 9:30 to 10 a.m.
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Regional planning partnerships—funding, governance, 46.9(1)“a,” 46.10 IAB 6/2/21 ARC 5662C	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: doe.zoom.us/j/95251915764?pwd=Y3ZFajcvNlVoNDQyVTJRanFaZW1YZz09	June 22, 2021 9 to 9:30 a.m.
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Definition of dyslexia, 62.6(3)“a” IAB 6/2/21 ARC 5663C	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: doe.zoom.us/j/95251915764?pwd=Y3ZFajcvNlVoNDQyVTJRanFaZW1YZz09	June 22, 2021 8:30 to 9 a.m.
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MEDICINE BOARD[653]

Standards of practice—medical
cannabidiol, 13.15(1)
IAB 6/2/21 **ARC 5668C**

Via Zoom:
us02web.zoom.us/j/82513785629?pwd=NEdRd1BCMVpqR3VRUmVXMUd5QkeyZz09
Meeting ID: 825 1378 5629
Passcode: 011109
Phone: +1 312.626.6799 US (Chicago)
(enter meeting ID and passcode)

June 22, 2021
9 to 10 a.m.

REVENUE DEPARTMENT[701]

Sales tax exemption—computer
peripherals; citations,
amendments to chs 18, 230
IAB 6/2/21 **ARC 5659C**

Via video/conference call
Contact Tim Reilly
Email: tim.reilly@iowa.gov

June 22, 2021
2 to 3 p.m.
(If requested)

School tuition organization tax
credit, 42.32, 52.38
IAB 5/19/21 **ARC 5636C**

Via video/conference call
Contact Michael Mertens
Email: michael.mertens@iowa.gov

June 8, 2021
10 to 11 a.m.
(If requested)

TRANSPORTATION DEPARTMENT[761]

Motor vehicles operated by an
automated driving system,
adopt ch 380; amend chs 400,
524, 540
IAB 5/19/21 **ARC 5621C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

June 11, 2021
9 a.m.
(If requested)

Odometer disclosure statements,
400.52(3)
IAB 5/19/21 **ARC 5618C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

June 10, 2021
10 to 11 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 5652C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Proposing rule making related to food safety and inspection service standards and providing an opportunity for public comment

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 76, “Meat and Poultry Inspection,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 189A.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 189A.

Purpose and Summary

The proposed rule making adopts by reference the most up-to-date federal standards from the Food Safety and Inspection Service (FSIS). In order for Iowa’s Meat and Poultry Bureau to remain compliant, state regulations must be equal to or greater than federal standards. Specifically, these updates address the following:

- Modernization of swine slaughter inspection.
- Preparation of uninspected products outside of the hours of inspectional supervision.
- Eliminating unnecessary requirements for hog carcass cleaning.
- Continuing to implement a requirement that was removed by FSIS to prevent confusion and noncompliance.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7808
Email: colin.tadlock@iowaagriculture.gov

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Public Hearing

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

June 23, 2021
10 to 11 a.m.

Second Floor Conference Room
Wallace State Office Building
Des Moines, Iowa
Via conference call: 866.685.1580
Access code: 515 281 3950#

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rules 21—76.1(189A) to 21—76.3(189A) as follows:

21—76.1(189A) Federal Wholesome Meat Act regulations adopted. Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~July 30, 2018~~ December 31, 2020, is hereby adopted in its entirety by reference; and in addition thereto, the following subsections shall be expanded to include:

1. to 6. No change.

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through ~~315~~, Parts ~~317 through~~ 320, Part 329, Part 332, Part 412, Part 416, Part 417, Part 418, Part 424, Part 430, Part 431, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~July 30, 2018~~ December 31, 2020, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of July 30, 2018, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

This rule is intended to implement Iowa Code sections 189A.3 and 189A.7(8).

21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted. Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~July 30, 2018~~ December 31, 2020, is hereby adopted in its entirety with the following exceptions: Sections 381.96, 381.97, 381.99, 381.101, 381.102, 381.104, 381.105, 381.106, 381.107, and 381.128, Subpart R, Subpart T, Subpart V, and Subpart W; and in addition thereto, the following subsections shall be expanded to include:

1. to 6. No change.

ITEM 2. Amend rule 21—76.6(189A) as follows:

21—76.6(189A) Forms and marks. Whenever an official form is designated by federal regulation, the appropriate Iowa form will be substituted, and whenever an official mark is designated, the following official Iowa marks will be substituted:

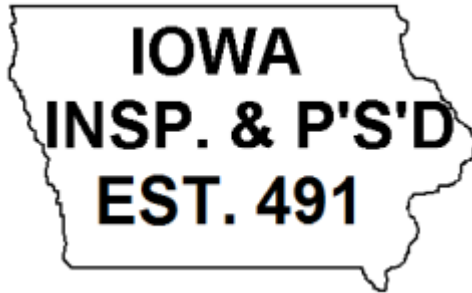
1. Iowa inspected and condemned brand:

IOWA INSP'D AND CONDEMNED

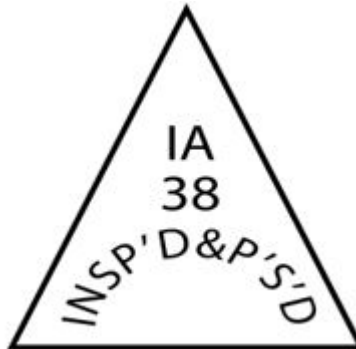
2. Iowa product label mark of inspection and carcass brand for amenable species:



3. Iowa inspected carcass brand for amenable species (excluding poultry): Stamp (brand) must be 1¼ inch tall. The wording shall be all the same height and fill the space inside and centered within the outline of the state of Iowa.



~~3.~~ 4. Exotic carcass brand:



~~4.~~ 5. Exotic product label mark of inspection:



AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

~~5.~~ 6. Notwithstanding any other provision of this rule, a red meat establishment that is a selected establishment under 9 CFR Part 332 shall use the official marks, devices, and certificates in 9 CFR Part 312 for products that are intended for interstate commerce with the modifications described in 9 CFR Sec. 332.5(c).

- a. Cooperative Interstate Shipment program product label mark of inspection:



- b. Cooperative Interstate Shipment program carcass brand. Sizing of brands shall be as described in 9 CFR Sec. 312.2(a), except that the 1¼" brand shall be utilized in lieu of the ¾" brand:



~~6.~~ 7. Notwithstanding any other provision of this rule, a poultry establishment that is a selected establishment under 9 CFR Part 381, Subpart Z, shall use the official marks, devices, and certificates in 9 CFR Part 381, Subpart M, for products that are intended for interstate commerce with the modifications described in 9 CFR Sec. 381.515(c). Cooperative Interstate Shipment program poultry product label mark of inspection:



This rule is intended to implement Iowa Code section 189A.5(2).

ITEM 3. Renumber rules **21—76.7(189A,167)** to **21—76.11(189A)** as **21—76.8(189A,167)** to **21—76.12(189A)**.

ITEM 4. Adopt the following new rule 21—76.7(189A):

21—76.7(189A) Products to be marked with official marks.

76.7(1) Each carcass which has been inspected and passed in an official establishment shall be marked at the time of inspection with the official inspection legend containing the number of the official establishment.

76.7(2) Except as provided otherwise in 9 CFR Part 316.8, each primal part of a carcass and each liver, beef tongue, and beef heart which has been inspected and passed shall be marked with the official inspection legend containing the number of the official establishment before it leaves the establishment in which it is first inspected and passed, and each such inspected and passed product shall be marked with the official inspection legend containing the number of the official establishment where it was last prepared. Additional official marks of inspection may be applied to products as desired to meet local conditions. Primal parts are the wholesale cuts of carcasses as customarily distributed to retailers. The round, flank, loin, rib, plate, brisket, chuck, and shank are primal parts of beef carcasses. Veal, mutton, and goat primal parts are the leg, flank, loin, rack, breast, and shoulder. The ham, belly, loin, shoulder, and jowl are pork primal parts. Equine primal parts are the round, flank, loin, rib, plate, brisket, chuck, and shank.

76.7(3) Beef livers shall be marked with the official inspection legend containing the number of the official establishment, at which the cattle involved were slaughtered, on the convex surface of the thickest portion of the organ.

76.7(4) Inspected and passed parts of carcasses which are not marked with the official inspection legend under this rule shall not enter any official establishment or be sold, transported, or offered for sale or transportation in commerce except as provided in 9 CFR Part 316.8.

This rule is intended to implement Iowa Code section 189A.5(2).

ITEM 5. Amend rule **21—76.11(189A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~189A.4(7)~~: 189A.5(2) "g."

ARC 5657C

CHIEF INFORMATION OFFICER, OFFICE OF THE [129]

Notice of Intended Action

**Proposing rule making related to broadband service
and providing an opportunity for public comment**

The Office of the Chief Information Officer (Office) hereby proposes to amend Chapter 20, “Broadband Infrastructure—Targeted Service Areas,” and Chapter 22, “Broadband Grants Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8B.4, 8B.10 and 8B.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 848.

Purpose and Summary

This rule making implements changes made to Iowa Code chapter 8B by 2021 Iowa Acts, House File 848, an Act relating to broadband service, including matters under the purview of the Office, the Empower Rural Iowa Broadband Grant Fund, and effective date and applicability provisions.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Office for a waiver of the discretionary provisions, if any, pursuant to 129—Chapter 7.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Office no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Pearson Skepnek
Office of the Chief Information Officer
200 East Grand Avenue
Des Moines, Iowa 50309
Phone: 515.414.6107
Fax: 515.281.6167
Email: pearson.skepnek@iowa.gov

Public Hearing

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

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

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

Review by Administrative Rules Review Committee

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

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 5658C**, IAB 6/2/21). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 5666C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Proposing rule making related to deaf and hard-of-hearing persons and providing an opportunity for public comment

The Educational Examiners Board hereby proposes to amend Chapter 13, "Issuance of Teacher Licenses and Endorsements," Chapter 14, "Special Education Endorsements," Chapter 16, "Statements of Professional Recognition (SPR)," and Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2585.

Purpose and Summary

2020 Iowa Acts, House File 2585, changed the terminology used in relation to deaf and hard-of-hearing persons, and these proposed amendments reflect the same changes.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 23, 2021. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

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

June 23, 2021
1 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

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

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 Board and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **13.28(25)“b”** as follows:

b. Content. Completion of 18 semester hours of coursework in American Sign Language to include the following:

- (1) Second language acquisition.
- (2) Sociology of the deaf and hard-of-hearing community.
- (3) Linguistic structure of American Sign Language.
- (4) Language teaching methodology specific to American Sign Language.
- (5) Teaching the culture of deaf and hard-of-hearing people.
- (6) Assessment of students in an American Sign Language program.

ITEM 2. Amend subrule 14.2(7) as follows:

14.2(7) 5-12 mildly disabled endorsement. This endorsement authorizes instruction to mildly disabled children who require special education program adaptations while assigned to a regular classroom for basic instructional purposes, or mildly disabled students placed in a special education class who receive part of their instruction in a regular classroom, or mildly disabled students requiring specially designed instruction while assigned to a regular classroom for basic instructional purposes. To fulfill the requirements for this endorsement, the applicant must:

- a.* Hold a regular education instruction endorsement at the secondary level (grades 5-12).

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

b. Hold one of the following endorsements at the secondary level: learning disabilities, mild to moderate intellectual disabilities, behavioral disorders, multicategorical resource room or multicategorical-special class with integration.

NOTE: These endorsements are designed for programs serving primarily mildly disabled students; ~~the sensory impaired.~~ Students who have sensory disorders are not included as “mildly disabled.”

ITEM 3. Amend subparagraph **14.2(8)“a”(2)** as follows:

(2) Characteristics of learners. Preparation which includes various etiologies of hearing loss, an overview of current trends in educational programming for students with hearing loss and educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from birth to age 21. Preparation in the social, emotional and behavioral characteristics of individuals with hearing loss, including the impact of such characteristics on classroom learning. Knowledge of the anatomy and physiology of the hearing mechanism and knowledge of the development of secondary senses when ~~hearing is impaired~~ a hearing disorder is present, effect of hearing loss on learning experiences, psychological aspects of hearing loss, and effects of medications on the hearing system. Preparation in the psychological and social-emotional characteristics of individuals with hearing loss to include the major social characteristics of individuals with hearing loss and the effects of this disability on learning, and the social and emotional aspects of individuals with hearing loss. Physical development and potential health ~~impairments~~ implications as they relate to the development and behavior of students with hearing loss. Components of linguistic and nonlinguistic communication used by individuals who are deaf or ~~hard-of-hearing~~ hard of hearing and communication modes used by and with individuals who are deaf or ~~hard-of-hearing~~ hard of hearing, including current theories of language development in individuals who are deaf or ~~hard-of-hearing~~ hard of hearing.

ITEM 4. Amend subrule 16.2(1) as follows:

16.2(1) Authorization. The holder of this statement of professional recognition is authorized to serve as a school audiologist to pupils from birth to age 21 who ~~have hearing impairments~~ are deaf or hard of hearing (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

ITEM 5. Amend subrule 27.3(5) as follows:

27.3(5) Professional service administrator.

a. *Authorization.* The holder of this endorsement is authorized to serve as a supervisor of special education support programs. However, an individual holding a statement of professional recognition is not eligible for the professional service administrator endorsement.

b. *Program requirements.*

(1) An applicant must hold a master’s degree in preparation for school psychology, speech/language pathology, audiology (or education of ~~the hearing-impaired~~ students who are deaf or hard of hearing), or social work.

(2) No change.

c. *Other.* The applicant must:

(1) Have four years of support service in a school setting with special education students in the specific discipline area desired.

(2) Meet the practitioner licensure requirements of one of the following endorsements:

1. School audiologist (or ~~hearing-impaired~~ deaf or hard of hearing at K-8 and 5-12).
2. School psychologist.
3. School social worker.
4. Speech-language pathologist.

ITEM 6. Amend paragraph **27.3(8)“a”** as follows:

a. *Authorization.* The holder of this endorsement is authorized to serve as a school audiologist to pupils from birth to age 21 who ~~have hearing impairments~~ are deaf or hard of hearing (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

ARC 5665C**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action****Proposing rule making related to teacher and administrator licensure and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Chapter 15, “Special Education Support Personnel Authorizations,” Chapter 16, “Statements of Professional Recognition (SPR),” Chapter 18, “Issuance of Administrator Licenses and Endorsements,” Chapter 20, “Renewals,” Chapter 22, “Authorizations,” Chapter 24, “Paraeducator Certificates,” and Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2.

Purpose and Summary

The United States Department of Education has recently changed accreditation language to include a broader scope, and these proposed amendments reflect the changes.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 23, 2021. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

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

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

June 23, 2021
1 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

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

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 Board and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 282—13.1(272) as follows:

282—13.1(272) All applicants desiring Iowa licensure.

13.1(1) Definitions.

“Coursework” means requirements completed for semester hour credit through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“Degree” means a specific qualification earned by a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“Nontraditional” means any method of teacher preparation that falls outside the traditional method of preparing teachers.

“Proficiency,” for the purposes of paragraph 13.5(2)“e,” means that an applicant has passed all parts of the standard.

“Recognized non-Iowa teacher preparation institution” means an institution that is state-approved and accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“State-approved” means a program for teacher preparation approved for state licensure.

“Traditional” means a one- or two-year sequenced teacher preparation program of instruction taught at a state-approved college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education that includes commonly recognized pedagogy classes coursework and requires a student teaching component.

13.1(1) 13.1(2) Licenses, authorizations, certificates, and statements of professional recognition. Licenses, authorizations, certificates, and statements of professional recognition are issued upon application filed on a form provided by the board of educational examiners and upon completion of the following:

a. National criminal history background check. An initial applicant will be required to submit a completed fingerprint packet that accompanies the application to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet will be assessed to the applicant.

b. Iowa division of criminal investigation background check. An Iowa division of criminal investigation (DCI) background check will be conducted on initial applicants. The fee for the evaluation of the DCI background check will be assessed to the applicant.

c. Registries and records check. A check of the following registries and records will be conducted on initial applicants: the sex offender registry under Iowa Code section 692A.121, the central registry for child abuse information established under Iowa Code chapter 235A, the central registry for dependent adult abuse information maintained under Iowa Code chapter 235B, and the information in the Iowa court

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

information system available to the general public. The fee for checks of these registries and records will be assessed to the applicant.

~~13.1(2)~~ **13.1(3)** *Temporary permits.* The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check and registries and records check set forth in paragraphs 13.1(1)“b” and “c.” The temporary permit shall serve as evidence of the applicant’s authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

ITEM 2. Amend paragraph **13.5(1)“a”** as follows:

a. Have a baccalaureate degree ~~from a regionally accredited institution.~~

ITEM 3. Amend subrule 13.5(2) as follows:

13.5(2) *Applicants from non-Iowa institutions.*

a. Definitions Original application.

~~“Nontraditional” means any method of teacher preparation that falls outside the traditional method of preparing teachers, that provides at least a one- or two-year sequenced program of instruction taught at regionally accredited and state-approved colleges or universities, that includes commonly recognized pedagogy classes being taught for course credit, and that requires a student teaching component.~~

~~“Proficiency,” for the purposes of paragraph 13.5(2)“e,” means that an applicant has passed all parts of the standard.~~

~~“Recognized non-Iowa teacher preparation institution” means an institution that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants under this subrule have completed a teacher preparation program outside the state of Iowa and are applying for their first Iowa teaching license.~~

b. and c. No change.

d. If the teacher preparation program was considered nontraditional, candidates will be asked to verify the following:

(1) That the program was for secondary education;

(2) A baccalaureate degree with a cumulative grade point average of 2.50 on a 4.0 scale ~~from a regionally accredited institution;~~ and

(3) The completion of a student teaching or internship experience or three years of teaching experience.

e. to g. No change.

ITEM 4. Amend rule 282—13.8(272) as follows:

282—13.8(272) Specific requirements for a master educator’s license. A master educator’s license is valid for five years and may be issued to an applicant who:

1. Is the holder of or is eligible for a standard license as set out in rule 282—13.7(272), and

2. Verifies five years of successful teaching experience, and

3. Completes one of the following options:

- Master’s degree ~~from a regionally accredited college or university~~ in a recognized endorsement area, or

- Master’s degree ~~from a regionally accredited college or university~~ in curriculum, effective teaching, or a similar degree program which has a focus on school curriculum or instruction.

ITEM 5. Amend subparagraph **13.17(1)“a”(1)** as follows:

(1) The applicant has met the minimum coursework requirements for licensure but has some coursework deficiencies. Any coursework deficiencies must be completed for college credit ~~through~~

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~a regionally accredited institution~~, with the exception of human relations which may be taken for licensure renewal credit through an approved provider.

ITEM 6. Amend subparagraph **13.17(3)“b”(1)** as follows:

(1) The applicant has completed a baccalaureate degree and a traditional state-approved teacher preparation program ~~at a regionally accredited and state-approved two- or four-year college.~~

ITEM 7. Amend subparagraph **13.28(32)“c”(2)** as follows:

(2) Program requirements.

1. The applicant must have met the requirements for a standard Iowa teaching license and a teaching endorsement in mathematics, science, engineering, industrial technology, or agriculture.

2. The applicant must hold a master's degree ~~from a regionally accredited institution. The master's degree must be~~ in math, science, engineering or technology or another area with at least 12 hours of college-level science and at least 12 hours of college-level math (or completion of Calculus I) to include coursework in computer programming.

ITEM 8. Amend subrule 15.1(2) as follows:

15.1(2) ~~The orientation and mobility specialist license is based on school-centered preparation, but the sequence of coursework does not permit service as a teacher.~~ Licensure procedures, requirements, and definitions are set out in 282—Chapter 13.

ITEM 9. Adopt the following **new** subrule 16.1(3):

16.1(3) Degrees. Degrees must be from a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

ITEM 10. Amend rule 282—18.1(272) as follows:

282—18.1(272) All applicants desiring an Iowa administrator license.

18.1(1) Definitions.

“Coursework” means requirements completed for semester hour credit through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“Degree” means a specific qualification earned through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“Recognized non-Iowa institution” means an institution that is state-approved and is accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“State-approved” means a program for administrator preparation approved for state licensure.

~~18.1(1)~~ **18.1(2) Administrator licenses.** Administrator licenses are issued upon application filed on a form provided by the board of educational examiners and upon completion of the background check requirements set forth in rule 282—13.1(272).

~~18.1(2)~~ **18.1(3) Temporary permits.** The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check and registries and records check set forth in 282—paragraphs 13.1(1) “b” and “c.” The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

ITEM 11. Amend rule 282—18.6(272) as follows:

282—18.6(272) Specific requirements for an administrator prepared out of state. An applicant seeking Iowa licensure who completes an administrator preparation program from a recognized non-Iowa institution shall verify the requirements of rules 282—18.1(272) and 282—18.4(272)

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

through traditional course-based preparation program and a transcript review. A recognized non-Iowa administrator preparation institution is one that is state approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants must hold and submit a copy of a valid or expired regular administrator certificate or license in another state, exclusive of a temporary, emergency or substitute license or certificate.

18.6(1) Administrator exchange license. A one-year nonrenewable administrator exchange license may be issued to an individual who has not met any of the following requirements:

a. Endorsement requirements. The applicant has not completed a minimum of 75 percent of the coursework for the PK-12 principal and PK-12 supervisor of special education endorsement, and any additional administrator endorsements desired. Has met a minimum of 75 percent of the coursework requirements for administrative licensure but has some coursework deficiencies.

b. Regular administrator certificate or license in the state in which the preparation was completed. The applicant is Is eligible for and has applied for a regular valid and current out-of-state administrator certificate or license in the state in which the preparation was completed but has not yet received the certificate or license and is waiting for the processing of the license.

c. Approved evaluator training requirement. The applicant has Has not completed the approved evaluator training requirement.

18.6(2) Conversion. Each applicant who receives the one-year administrator exchange license must complete any identified licensure coursework deficiencies in order to be eligible for an initial administrator license or a professional administrator license in Iowa. Any coursework deficiencies must be completed for college credit through a regionally accredited institution, with the exception of the human relations component which may be taken for licensure renewal credit through an approved provider.

18.6(3) and 18.6(4) No change.

ITEM 12. Amend rule 282—20.1(272) as follows:

282—20.1(272) General renewal information. This chapter contains renewal requirements for those individuals desiring to renew the initial, standard, master educator, professional administrator, ~~area education agency administrator~~, or substitute license or a statement of professional recognition (SPR). Individuals desiring to renew a license issued under some other title are referred to 282—Chapters 22, 23, and 24.

ITEM 13. Adopt the following **new** subrule 20.3(7):

20.3(7) College or university degrees and credit. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

ITEM 14. Amend subrule 20.5(2) as follows:

20.5(2) Six units are needed for renewal. These units may be earned in any combination listed as follows:

a. One unit may be earned for each semester hour of graduate credit, ~~completed from a regionally accredited institution~~, which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, ~~completed from a regionally accredited institution~~, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, ~~completed from a regionally accredited institution~~, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

d. to f. No change.

ITEM 15. Amend subrule 20.6(2) as follows:

20.6(2) Four units are needed for renewal. For an applicant who also holds a specialist's or doctor's degree, two units are needed for renewal. These units may be earned in any combination listed below:

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

a. One unit may be earned for each semester hour of graduate credit, ~~completed from a regionally accredited institution,~~ which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, ~~completed from a regionally accredited institution,~~ which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, ~~completed from a regionally accredited institution,~~ which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

d. to f. No change.

ITEM 16. Amend rule 282—20.7(272) as follows:

282—20.7(272) Specific renewal requirements for a substitute license. In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272). An applicant for renewal of a substitute license shall meet one of the requirements listed below:

1. Verification of at least 30 days of substitute teaching during the term of the license or one year of teaching experience within the last five years completed during the term of a valid Iowa teaching license.

2. Completion of ~~a local education agency or area education agency course~~ one licensure renewal credit approved through licensure renewal guidelines established by the board of educational examiners.

3. Completion of one semester hour of credit taken from a community college, college, or university.

ITEM 17. Amend subrule 20.9(2) as follows:

20.9(2) Four units are needed for renewal. For an applicant who also holds a specialist's or doctor's degree, two units are needed for renewal. These units may be earned in any combination listed below:

a. One unit may be earned for each semester hour of graduate credit, ~~completed from a regionally accredited institution,~~ which leads toward the completion of a planned specialist's or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, ~~completed from a regionally accredited institution,~~ which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, ~~completed from a regionally accredited institution,~~ which may not lead to a degree but which leads to completion of requirements for an administrator endorsement not currently held.

d. and e. No change.

ITEM 18. Amend paragraph **22.1(2)“a,”** introductory paragraph, as follows:

a. ~~Credit hours~~ Content requirements. Requirements completed for semester hour credit must be through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education. Applicants must complete ~~credit hours in~~ the following areas content requirements:

ITEM 19. Amend subrule 22.2(1) as follows:

22.2(1) Application process. Any person interested in the substitute authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at www.boee.iowa.gov or from institutions or agencies offering approved courses or contact hours. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

a. *Requirements.* Applicants for the substitute authorization shall meet the following requirements:

(1) No change.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) Degree or certificate. Applicants must have achieved a minimum of an associate's degree or 60 semester hours of college coursework ~~from a regionally accredited institution.~~

(3) and (4) No change.

b. to d. No change.

ITEM 20. Amend subrule 22.3(3) as follows:

22.3(3) Application process. Any person interested in the school business official authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at www.boee.iowa.gov, or from institutions or agencies offering approved courses or contact hours. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

ITEM 21. Amend paragraph **22.5(3)“a”** as follows:

a. The applicant must have completed a baccalaureate degree through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

ITEM 22. Amend subrule 22.9(2) as follows:

22.9(2) Application process. Any person interested in the career and technical secondary authorization shall submit the application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

ITEM 23. Amend subparagraph **22.9(3)“e”(1)** as follows:

(1) Applicants must commit to complete the following requirements within the term of the initial authorization. Coursework must be completed for college semester hour credit ~~from a regionally accredited institution.~~

1. Coursework in the methods and techniques of career and technical education.
2. Coursework in course and curriculum development.
3. Coursework in the measurement and evaluation of programs and students.
4. An approved human relations course.
5. Coursework in the instruction of exceptional learners to include the education of individuals with disabilities and the gifted and talented.

ITEM 24. Amend subrule 22.10(1) as follows:

22.10(1) Application process. Any person interested in the activities administration authorization shall submit an application and records of credit to the board of educational examiners for an evaluation of the required courses or contact hours. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

a. Requirements. Applicants for the activities administration authorization shall meet the following requirements:

(1) Degree. A baccalaureate degree or higher in athletic administration or related field ~~from a regionally accredited institution~~ is required.

(2) No change.

b. and c. No change.

ITEM 25. Amend subrule 22.10(3) as follows:

22.10(3) Renewal.

a. The authorization may be renewed upon application and verification of successful completion of the following renewal activities:

(1) Applicants for renewal of an activities administration authorization must complete one of the following professional development options:

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

1. Document attendance at one state IHSADA convention and one LTI course relating to the knowledge and understanding of professional ethics and legal responsibilities of activities administrators.
2. Complete three LTI courses.
3. Complete 2 semester hours of college credit ~~from a regionally accredited institution.~~
4. Complete 2 licensure renewal credits from an approved provider.

(2) Applicants for renewal of an activities authorization must complete child and dependent adult abuse training as stated in 282—subrule 20.3(4).

b. No change.

ITEM 26. Amend subrule 22.12(2) as follows:

22.12(2) Initial orientation and mobility authorization. The initial authorization is valid for three years. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education. An applicant must:

a. Hold a baccalaureate or master's degree from an approved state ~~and regionally accredited~~ program in orientation and mobility or equivalent coursework.

b. to f. No change.

ITEM 27. Amend subrule 22.12(4) as follows:

22.12(4) Renewal of orientation and mobility license. ~~Renewal requirements for the career and technical secondary authorization.~~ Applicants must meet the renewal requirements set forth in rule 282—20.3(272) and 282—subrule 20.5(2).

ITEM 28. Amend subrule 24.5(2) as follows:

24.5(2) Possess an associate's degree or have earned 62 semester hours of college coursework ~~from a regionally accredited institution of higher education.~~ Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

ITEM 29. Amend rule 282—27.1(272) as follows:

282—27.1(272) Professional service license. A professional service licensee is an individual prepared to provide professional services in Iowa schools but whose preparation has not required completion of the teacher preparation coursework set forth in rule 281—79.15(256). Degrees and coursework shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education. The professional service license may be issued in the following areas but does not permit service as a teacher:

1. School counselor.
2. School psychologist.
3. Speech-language pathologist.
4. Supervisor of special education (support).
5. Director of special education of an area education agency.
6. School social worker.
7. School audiologist.

ITEM 30. Amend subrule 27.2(1) as follows:

27.2(1) Initial professional service license. An initial professional service license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant for licensure to serve as a school audiologist, school psychologist, school social worker, speech-language pathologist, supervisor of special education (support), director of special education of an area education agency, or school counselor who:

a. Has a master's degree in a recognized professional educational service area ~~from a regionally accredited institution.~~

b. to e. No change.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 31. Amend subrule 27.2(5) as follows:

27.2(5) Class G license. A nonrenewable Class G license valid for one year may be issued to an individual who must complete a school counseling practicum or internship in an approved program in preparation for the professional school counselor endorsement. The Class G license may be issued under the following limited conditions:

- a. Verification of a baccalaureate degree ~~from a regionally accredited institution.~~
- b. Verification from the institution that the individual is admitted and enrolled in a school counseling program.
- c. Verification that the individual has completed the coursework and competencies required prior to the practicum or internship.
- d. Written documentation of the requirements listed in paragraphs 27.2(5) "a" to "c," provided by the official at the institution where the individual is completing the approved school counseling program and forwarded to the Iowa board of educational examiners with the application form for licensure.

ITEM 32. Amend subrule 27.5(2) as follows:

27.5(2) Four units are needed for renewal. For an applicant who also holds a specialist's or doctor's degree, two units are needed for renewal. These units may be earned in any combination listed below:

- a. One unit may be earned for each semester hour of graduate credit, ~~completed from a regionally accredited institution,~~ which leads toward the completion of a planned master's, specialist's, or doctor's degree program.
- b. One unit may be earned for each semester hour of graduate or undergraduate credit, ~~completed from a regionally accredited institution,~~ which may not lead to a degree but which adds greater depth/breadth to present endorsements held.
- c. One unit may be earned for each semester hour of credit, ~~completed from a regionally accredited institution,~~ which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.
- d. No change.

ARC 5667C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Proposing rule making related to statements of professional recognition for behavior analysts and mental health professionals and providing an opportunity for public comment

The Educational Examiners Board hereby proposes to amend Chapter 16, "Statements of Professional Recognition (SPR)," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 532.

Purpose and Summary

2021 Iowa Acts, Senate File 532, directs the Iowa Board of Educational Examiners to create statements of professional recognition for behavior analysts and mental health professionals.

Fiscal Impact

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

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 23, 2021. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

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

June 23, 2021
1 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

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

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 Board and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 16.1(1) as follows:

16.1(1) The following are authorizations that require or permit statements of professional recognition and licenses obtained from the professional licensure division, department of public health, or the board of nursing and that do not permit service as a teacher:

- a. School audiologist.
- b. School nurse.
- c. School occupational therapist.
- d. School physical therapist.
- e. School social worker.
- f. Special education nurse.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- g. Speech-language pathologist.
- h. School behavior analyst.
- i. School mental health professional.

ITEM 2. Adopt the following **new** rule 282—16.9(272):

282—16.9(272) School behavior analyst. A person who has obtained a master's degree and board-certified behavior analyst certification and who is licensed by the Iowa board of behavioral science may obtain a statement of professional recognition (SPR) from the board of educational examiners.

16.9(1) Authorization. The holder of this authorization can serve as a school behavior analyst to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The legalization for this support service personnel is through an SPR and not through teacher licensure.

16.9(2) Requirements.

a. The special education director (or designee) of the school district or area education agency must submit a letter to the board of educational examiners to request that the authorization be issued.

b. An applicant must also submit the following documents:

- (1) A copy of a temporary or regular license from the board of behavioral science.
- (2) An official transcript.

c. While employed by an accredited K-12 school district or area education agency, the applicant must also maintain licensure with the Iowa board of behavioral science.

16.9(3) Validity. The SPR shall be valid for five years.

16.9(4) Temporary authorization. A temporary SPR will be issued for one school year if the class of license from the professional licensure division is temporary. A regular SPR will be issued with verification of a regular license.

ITEM 3. Adopt the following **new** rule 282—16.10(272):

282—16.10(272) School mental health professional. A mental health professional pursuant to Iowa Code section 228.1 who has obtained a license from a bureau under the Iowa department of public health shall obtain a statement of professional recognition (SPR) from the board of educational examiners to serve students in a school setting.

16.10(1) Authorization. The holder of this authorization can serve as a school mental health professional to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The legalization for this support service personnel is through an SPR and not through teacher licensure.

16.10(2) Requirements.

a. The special education director (or designee) of the school district or area education agency must submit a letter to the board of educational examiners to request that the authorization be issued.

b. An applicant must also submit the following documents:

(1) A copy of a temporary or regular license from the relevant bureau of the Iowa department of public health.

(2) An official transcript.

c. While employed by an accredited K-12 school district or area education agency, the applicant must also maintain licensure with the relevant bureau of the Iowa department of public health.

d. Social workers shall obtain an SPR specific to school social work.

16.10(3) Validity. The SPR shall be valid for five years.

16.10(4) Temporary authorization. A temporary SPR will be issued for one school year if the class of license from the professional licensure division is temporary. A regular SPR will be issued with verification of a regular license.

ARC 5661C**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to senior year plus program
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 22, “Senior Year Plus Program,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2310, and 2021 Iowa Acts, House File 308.

Purpose and Summary

Item 1 proposes to amend the student eligibility requirements to reflect 2021 Iowa Acts, House File 308. Item 2 proposes to strike an obsolete reference to Iowa Learning Online. Item 3 proposes to strike an obsolete requirement related to the Summer College Credit Program.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Thomas Mayes
Iowa Department of Education
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Public Hearing

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

EDUCATION DEPARTMENT[281](cont'd)

June 22, 2021
8 to 8:30 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via videoconference:
idoe.zoom.us/j/95251915764?pwd=Y3ZFajcvNlVoNDQyVTJRanFaZWlYZz09

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind paragraph **22.2(2)“b”** and adopt the following **new** paragraph in lieu thereof:

b. Demonstrated proficiency in reading, mathematics, and science.

(1) The student, except as otherwise provided in this paragraph, shall have demonstrated proficiency in reading, mathematics, and science as evidenced by achievement of any of the following:

1. Demonstrated proficiency in all of the content areas of English language arts, including reading and writing; mathematics; and science, as evidenced by achievement scores on the most recent administration of the statewide assessment for which scores are available for the student. For purposes of this paragraph, starting in the school year beginning July 1, 2021, and each thereafter, the achievement scores from the state assessment administered during the school year beginning July 1, 2019, shall be considered the latest available scores. If the student was absent for the most recent administration of the statewide assessment, and such absence was not excused by the student's school of enrollment, the student is deemed not to be proficient in any of the content areas.

2. Measures of college readiness jointly agreed upon by the school board and the eligible postsecondary institution that allow a student to demonstrate competency in one or all of the required subject areas. Institutions shall ensure the following:

- The measures of college readiness align to the proficiency levels established for the statewide assessment and reflect the competence of entering first-year students at the postsecondary institution.
- The measures of college readiness are specified in a contract entered into by the participating institutions.

3. Alternative but equivalent qualifying performance measures, if established by the school board. The school board is not required to establish equivalent performance measures, but if it does so, such measures may include but are not limited to additional administrations of the state assessment, portfolios of student work, student performance rubric, or end-of-course assessments.

(2) Measures established under subparagraphs 22.2(1)“b”(2) and 22.2(1)“b”(3) shall apply equally to all eligible students.

(3) A student who attends an accredited nonpublic school and desires to access postsecondary enrollment options shall meet the same eligibility criteria as students in the school district in which the accredited nonpublic school is located.

(4) A student under competent private instruction shall meet the same proficiency standard as students in the school district in which the student is dually enrolled and shall have the approval of the school board in that school district to register for the postsecondary course. In lieu of statewide

EDUCATION DEPARTMENT[281](cont'd)

assessment scores on the state assessment, a school district shall allow a student under competent private instruction to demonstrate proficiency in reading, mathematics, and science by any one of the following means:

1. By meeting the same alternative but equivalent qualifying performance measures established by the local school board for all students in the school district in which the student is dually enrolled;
2. By submitting the written recommendation of the licensed practitioner providing supervision to the student in accordance with Iowa Code section 299A.2;
3. As evidenced by achievement scores on the annual achievement evaluation required under Iowa Code section 299A.4;
4. As evidenced by a composite score of at least 21 on the college readiness assessment administered by ACT, Inc.;
5. As evidenced by a sum of at least 141 in critical reading, mathematics, and writing skills on the preliminary scholastic aptitude test (PSAT) administered by the College Board; or
6. As evidenced by a sum of at least 990 in critical reading and mathematics on the college readiness assessment (SAT) administered by the College Board.

ITEM 2. Amend rule 281—22.28(261E) as follows:

281—22.28(261E) Internet-based coursework. The programming in this chapter may be delivered via Internet-based technologies ~~including but not limited to the Iowa learning online program~~. An Internet-based course may qualify for additional supplemental weighting if it meets the requirements of Division IV or Division VI of this chapter. To qualify as a senior year plus course, an Internet-based course must comply with the appropriate provisions of this chapter.

ITEM 3. Amend paragraph **22.33(3)“c”** as follows:

c. Review of proposals. The department shall establish a review process to evaluate all program proposals. In reviewing proposals, the department shall give priority consideration to program proposals that will ensure equitable geographic disbursement of approved programs. The department shall also give consideration to additional criteria including number of students served; ~~cost per credit hour offered~~; alignment to in-demand occupations; the inclusion of extracurricular experiences with an emphasis on project-, problem-, and work-based learning opportunities; and the inclusion of provisions that address and remove barriers to participation for nontraditional students, underrepresented minority students, and low-income students.

ARC 5664C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

The State Board of Education hereby proposes to amend Chapter 31, “Private Instruction and Dual Enrollment,” Chapter 41, “Special Education,” Chapter 56, “Iowa Vocational Rehabilitation Services,” and Chapter 120, “Early Access Integrated System of Early Intervention Services,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2585.

EDUCATION DEPARTMENT[281](cont'd)

Purpose and Summary

2020 Iowa Acts, House File 2585, made changes to terminology associated with individuals who are deaf or hard of hearing. After consultation with individuals involved in providing service to individuals who are deaf or hard of hearing, as well as individuals who are blind or visually impaired, the Department offers the following amendments. These amendments are intended to correct outdated terminology. They are not intended to confer any substantive right or conflict with federal law.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Thomas Mayes
Iowa Department of Education
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Public Hearing

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

June 22, 2021
9:30 to 10 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via videoconference:
idoe.zoom.us/j/95251915764?pwd=Y3ZFajcvNlVoNDQyVTJRanFaZW1YZz09

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs, by calling 515.281.5295.

Review by Administrative Rules Review Committee

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

EDUCATION DEPARTMENT[281](cont'd)

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **31.8(2)“a”** as follows:

a. A child's parent, guardian, or legal or actual custodian who chooses standardized testing for the purpose of fulfilling the assessment requirements of the law shall select an instrument approved by the department. The department shall publish an approved list of standardized testing instruments each year. In the event that the parent, guardian, or legal or actual custodian of a child subject to the annual assessment requirement wishes to have the child take a standardized test not included on the department's published list, the parent, guardian, or legal or actual custodian shall request permission of the director of the department of education to use a different test. The decision of the director shall be final. Braille or large print editions of any approved test shall be made available for vision-impaired children. Testing norms are available for ~~vision and hearing-impaired children~~ with vision impairments or children who are deaf or hard of hearing.

ITEM 2. Amend paragraph **41.2(1)“c”** as follows:

c. Other state agencies and schools, including but not limited to the departments of human services and public health and state schools and programs for children ~~with deafness or children with blindness~~ who are deaf or hard of hearing or children who are blind or visually impaired.

ITEM 3. Amend subrule 41.29(2) as follows:

41.29(2) Special rule. For an individual ~~with deafness or blindness~~ who is deaf or hard of hearing or who is blind or visually impaired, or for an individual with no written language, the mode of communication is that normally used by the individual, such as sign language, ~~Braille~~ braille, or oral communication.

ITEM 4. Amend paragraph **41.34(3)“g”** as follows:

g. “*Orientation and mobility services*” means services provided to children who are blind or visually impaired ~~children~~ by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community, and includes teaching children the following, as appropriate:

(1) to (4) No change.

ITEM 5. Amend subrule 41.50(3) as follows:

41.50(3) Deaf-blindness. “Deaf-blindness” means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children ~~with deafness~~ who are deaf or hard of hearing or children with blindness who are blind or visually impaired.

ITEM 6. Amend subrule 41.50(13) as follows:

41.50(13) Visual impairment. “Visual impairment,” including blindness, means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness. Individuals who have a medically diagnosed expectation of visual deterioration in adolescence or early adulthood may qualify for instruction in ~~Braille~~ braille reading and writing.

ITEM 7. Amend subrule 41.113(1) as follows:

41.113(1) Hearing aids. Each public agency must ensure that hearing aids worn in school by children ~~with hearing impairments, including deafness,~~ who are deaf or hard of hearing are functioning properly.

ITEM 8. Amend paragraph **41.172(1)“a”** as follows:

a. Adopts the National Instructional Materials ~~Accessibility~~ Accessibility Standard (NIMAS) published in the Federal Register on July 19, 2006, (71 Fed. Reg. 41084) for the purposes of providing

EDUCATION DEPARTMENT[281](cont'd)

instructional materials to ~~blind~~ persons who are blind or visually impaired or other persons with print disabilities in a timely manner; and

ITEM 9. Amend rule 281—41.210(256B,34CFR300) as follows:

281—41.210(256B,34CFR300) Purchase of instructional materials.

41.210(1) General. An AEA, an LEA, or any other public agency, when purchasing print instructional materials, must acquire those instructional materials for children who are blind or visually impaired or for other persons with print disabilities in a manner consistent with subrule 41.210(3) and ensure delivery of those materials in a timely manner to those children.

41.210(2) Rights and responsibilities of AEA or LEA. Nothing in this rule relieves the LEA or AEA or any other public agency of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but who are not included under the definition of ~~blind~~ persons who are blind or visually impaired or other persons with print disabilities in 41.210(4) “a” or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner, as defined in 41.172(1) “b.”

41.210(3) Preparation and delivery of files. Because the state chooses to coordinate with the NIMAC, an AEA, an LEA, or any other public agency must:

a. As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, enter into a written contract with the publisher of the print instructional materials to:

(1) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or

(2) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

b. Provide instructional materials to ~~blind~~ persons who are blind or visually impaired or other persons with print disabilities in a timely manner.

41.210(4) Definitions. The following definitions apply to this rule and rule 281—41.172(256B,34CFR300), and apply to each state and LEA, regardless of whether the state or LEA chooses to coordinate with the NIMAC:

a. “~~Blind persons~~ Persons who are blind or visually impaired or other persons with print disabilities” means children served under this chapter who may qualify to receive books and other publications produced in specialized formats in accordance with 2 U.S.C. 135a and 36 CFR 701.6. Persons who may receive material in specialized formats include persons who are blind, who have visual disabilities, have certain physical disabilities, or who have reading disabilities resulting from organic dysfunction, as those terms are defined in 36 CFR 701.6(b)(1), and who have obtained certification from a “competent authority,” as defined in 36 CFR 701.6(b)(2).

b. “National Instructional Materials Access Center” or “NIMAC” means the center established pursuant to Section 674(e) of the Act.

c. “National Instructional Materials Accessibility Standard” or “NIMAS” has the meaning given the term in Section 674(e)(3)(B) of the Act.

d. “Print instructional materials” has the meaning given the term in Section 674(e)(3)(C) of the Act.

e. “Specialized formats” has the meaning given the term in Section 674(e)(3)(D) of the Act.

ITEM 10. Amend subrule 41.322(5) as follows:

41.322(5) Use of interpreters or other action, as appropriate. The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents ~~with deafness~~ who are deaf or hard of hearing or whose native language is other than English.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 11. Amend subparagraph **41.324(1)“b”(3)** as follows:

(3) In the case of a child who is blind or visually impaired, provide for instruction in Braille braille and the use of Braille braille unless the IEP team determines, after an evaluation of the child’s reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child’s future needs for instruction in Braille braille or the use of Braille braille, that instruction in Braille braille or the use of Braille braille is not appropriate for the child;

ITEM 12. Amend subrule 41.324(6) as follows:

41.324(6) Rules of construction—instruction in Braille braille. For an eligible individual for whom instruction in Braille braille is determined to be appropriate, as provided in 41.324(1) “b”(3), that eligible individual is entitled to instruction in Braille braille reading and writing that is sufficient to enable the individual to communicate with the same level of proficiency as an individual of otherwise comparable ability at the same grade level. Braille Instruction in braille reading and writing ~~instruction~~ may only be provided by a teacher ~~licensed at the appropriate grade level~~ with an endorsement to teach individuals ~~with visual impairments~~ who are blind or visually impaired.

ITEM 13. Amend subrule **41.402(3)**, definition of “Audiologist,” as follows:

“*Audiologist*” applies principles, methods and procedures for analysis of hearing functioning in order to plan, counsel, coordinate and provide intervention strategies and services for individuals ~~with deafness or hearing impairments~~ who are deaf or hard of hearing.

ITEM 14. Amend subrule 41.403(2), definition of “Vision assistant,” as follows:

“*Vision assistant*” provides materials in the appropriate medium for use by individuals ~~with visual impairment including blindness~~ who are blind or visually impaired and performs other duties as assigned by the supervising teacher of ~~individuals with visual impairments~~ the visually impaired.

ITEM 15. Adopt the following new rule 281—41.1102(256B,34CFR300):

281—41.1102(256B,34CFR300) Rule of construction. Language adopted pursuant to 2020 Iowa Acts, House File 2585, shall be construed in a manner consistent with federal law and shall not be construed to confer any different or greater right or responsibility under this chapter.

ITEM 16. Amend paragraph **56.25(4)“j”** as follows:

j. The availability of interpreter and reader services for appellants not familiar with the English language and those who are deaf or hard of hearing and the availability of transportation or attendant services for those appellants requiring such assistance.

ITEM 17. Amend paragraph **120.13(3)“k”** as follows:

k. Special educators, including teachers of children ~~with hearing impairments (including deafness)~~ who are deaf or hard of hearing and teachers of children with visual impairments (including blindness).

ITEM 18. Amend paragraph **120.602(2)“c”** as follows:

c. As needed, provide for interpreters for persons who are deaf or hard of hearing and other necessary services for council members and participants. The council may use funds under this chapter to pay for those services.

ITEM 19. Adopt the following new rule 281—120.814(34CFR303):

281—120.814(34CFR303) Rule of construction. Language adopted pursuant to 2020 Iowa Acts, House File 2585, shall be construed in a manner consistent with federal law and shall not be construed to confer any different or greater right or responsibility under this chapter.

ARC 5662C**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to technical education funds and regional planning partnerships and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 46, “Career and Technical Education,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 648.

Purpose and Summary

2018 Iowa Acts, House File 648, changed the way regional planning partnerships receive funding from the Iowa Department of Education. This proposed rule making conforms the funding process to House File 648 and makes modernizing changes to the governance of regional planning partnerships.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Public Hearing

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

EDUCATION DEPARTMENT[281](cont'd)

June 22, 2021
9 to 9:30 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via videoconference:
idoe.zoom.us/j/95251915764?pwd=Y3ZFajcvNlVoNDQyVTJRanFaZWlYZz09

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **46.9(1)“a”** as follows:

a. At the beginning of a fiscal year, the department shall assign to each partnership a portion of the total designated career and technical education funds ~~from which the partnership may claim reimbursement from appropriated to the department.~~ The department shall disburse funds to a partnership following approval of the multiyear plan pursuant to subrule 46.10(2).

ITEM 2. Amend paragraph **46.10(4)“b”** as follows:

b. Collect and review all relevant plans required by the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations; career and academic plans required under 281—Chapter 49; and regional labor market, socioeconomic, and demographic information for purposes of facilitating the program review process specified under paragraph 46.10(4)“f” and regional activities specified in the state plan developed under the aforementioned federal Act.

ITEM 3. Rescind paragraph **46.10(6)“a”** and adopt the following **new** paragraph in lieu thereof:

a. Staffing and resources to ensure the minimum duties and responsibilities assigned to the regional planning partnership under subrules 46.10(4) and 46.10(5) are satisfactorily executed. The partnership shall ensure adequate staffing and resources are committed to these purposes prior to allocating funds for any use authorized under paragraph 46.10(6)“b.”

ITEM 4. Amend paragraph **46.10(6)“b”** as follows:

b. To offer regional career and technical education professional development opportunities; coordinate, maintain, and support a career guidance system pursuant to 281—Chapter 49 and related work-based learning opportunities for students; and purchase career and technical education equipment and curricular resources to include standard classroom consumable supplies directly related to and necessary for the course curriculum, other than basic consumable supplies that will be made into products to be sold or used personally by students, teachers, and other persons. ~~All expenditures on allowable uses specified under this paragraph must conform to the requirements of the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations.~~

ARC 5663C**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to the definition of “dyslexia”
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 62, “State Standards for Progression in Reading,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2356.

Purpose and Summary

This rule making conforms the definition of “dyslexia” in rule to the definition of “dyslexia” in 2020 Iowa Acts, Senate File 2356.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Public Hearing

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

EDUCATION DEPARTMENT[281](cont'd)

June 22, 2021
8:30 to 9 a.m.

ICN Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via videoconference:
idoe.zoom.us/j/95251915764?pwd=Y3ZFajcvNlVoNDQyVTJRanFaZWlYZz09

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs, by calling 515.281.5295.

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend paragraph **62.6(3)“a”** as follows:

a. Assists students assessed as persistently at risk in reading to develop the skills to read at grade level. Assistance shall include but not be limited to strategies that formally address dyslexia, when appropriate. For purposes of this paragraph, “dyslexia” means a specific and significant impairment in the development of reading, including but not limited to phonemic awareness, phonics, fluency, vocabulary, and comprehension, that is not solely accounted for by intellectual disability, sensory learning disability or impairment, or lack of appropriate instruction that is neurobiological in origin, is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities, and may include difficulties that typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, as well as secondary consequences such as problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

ARC 5668C

MEDICINE BOARD[653]

Notice of Intended Action

**Proposing rule making related to medical cannabidiol
and providing an opportunity for public comment**

The Board of Medicine hereby proposes to amend Chapter 13, “Standards of Practice and Principles of Medical Ethics,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124E.2.

MEDICINE BOARD[653](cont'd)

Purpose and Summary

This rule making is intended to implement 2020 Iowa Acts, House File 2589, which amended Iowa Code section 124E.2 to make changes to the definitions of “debilitating medical condition” and “medical cannabidiol.”

Specifically, one of the conditions listed under “debilitating medical condition,” Iowa Code section 124E.2(2)“i,” was amended to read “chronic pain.” The legislation also amended the definition to add a condition, “post-traumatic stress disorder.” The definition of “medical cannabidiol,” Iowa Code section 124E.2(10), was amended to remove the reference to the 3 percent tetrahydrocannabinol level limit.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 23, 2021. Comments should be directed to:

Joseph Fraioli
Iowa Board of Medicine
400 SW Eighth Street, Suite C
Des Moines, Iowa 50309
Phone: 515.281.3614
Email: joseph.fraioli@iowa.gov

Public Hearing

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

June 22, 2021
9 to 10 a.m.

Zoom link:
us02web.zoom.us/j/82513785629?pwd=NEdRd1BCMVpqR3VRUmVXMUd5QkcyZz09
Meeting ID: 825 1378 5629
Passcode: 011109
Phone: +1 312.626.6799 US (Chicago) (enter meeting ID and passcode)

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

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

MEDICINE BOARD[653](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule **13.15(1)**, definitions of “Debilitating medical condition” and “Medical cannabidiol,” as follows:

“*Debilitating medical condition*” means any of the following:

1. to 8. No change.
9. ~~Untreatable~~ Chronic pain.
10. No change.
11. Severe, intractable ~~pediatric~~ autism with self-injurious or aggressive behaviors.
12. No change.
13. Post-traumatic stress disorder.

“*Medical cannabidiol*” means any pharmaceutical grade cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof ~~that has a tetrahydrocannabinol level of no more than 3 percent and~~ that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and adopted by the department pursuant to rule.

ARC 5654C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

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

The Public Safety Department hereby proposes to amend Chapter 10, “Practice and Procedure Before the Department of Public Safety,” and Chapter 401, “Peace Officers’ Retirement, Accident, and Disability System—Administrative Procedures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 17A.9A.

State or Federal Law Implemented

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

Purpose and Summary

The proposed amendments to Chapters 10 and 401 reflect the changes made to Iowa Code section 17A.9A by 2020 Iowa Acts, House File 2389. Those changes include striking references to variances as well as the requirement that agencies submit semiannual reports on waivers of rules to the Administrative Rules Coordinator and the Administrative Rules Review Committee. These amendments also reflect a new requirement for agencies to submit information regarding a waiver on an Internet site devised by the Administrative Rules Coordinator within 60 days of granting or denying the waiver.

Fiscal Impact

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

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Sarah Jennings
Department Of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: jennings@dps.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 661—10.222(17A) as follows:

661—10.222(17A) Waivers of rules. This rule outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the department of public safety in situations where no other more specific procedure provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from that rule. Generally, more specific procedures exist for considering waivers from rules of the state fire marshal and from provisions of the state of Iowa building code.

10.222(1) No change.

10.222(2) Criteria for waiver ~~or variance~~. In response to a petition completed pursuant to this rule, the department may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the department finds, based on clear and convincing evidence, all of the following:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

a. to d. No change.

10.222(3) to 10.222(9) No change.

10.222(10) ~~Summary reports~~ Submission of waiver information. ~~Semiannually, the department shall prepare a summary report identifying~~ When the department grants a waiver, the department shall submit information required by Iowa Code section 17A.9A and in the manner prescribed by Iowa Code section 17A.9 within 60 days. The Internet site shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the department's actions on waiver requests. If practicable, the ~~report~~ department shall ~~detail~~ include information detailing the extent to which the granting of a waiver has affected the general applicability of the rule itself. ~~Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

10.222(11) to 10.222(14) No change.

10.222(15) Sample petition for waiver. A petition for waiver filed in accordance with this chapter must meet the requirements specified herein and must substantially conform to the following form:

BEFORE THE IOWA DEPARTMENT OF PUBLIC SAFETY

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



PETITION FOR WAIVER/~~VARIANCE~~

1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver ~~or variance~~). Also provide the name, address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. to 4. No change.

- Why applying the rule would result in undue hardship to the petitioner;
- Why waiving the rule would not prejudice the substantial legal rights of any person;
- Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
- How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

5. Provide a history of any prior contacts between the department, other departments or agencies of the state of Iowa, or political subdivisions and petitioner relating to the regulated activity or license that would be affected by the waiver. Include a description of each affected license held by the petitioner, any formal charges filed, any notices of violation, any contested case hearings held, or any investigations related to the regulated activity, license, registration, certification, or permit.

6. and 7. No change.

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver ~~or variance~~.

9. and 10. No change.

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

Petitioner's signature

Date

This rule is intended to implement Iowa Code section 17A.22.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 2. Amend rule 661—401.113(17A,97A) as follows:

661—401.113(17A,97A) Waivers of rules. This rule outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from the rule in question.

401.113(1) and 401.113(2) No change.

401.113(3) Criteria for waiver or variance. In response to a petition completed pursuant to this rule, the board may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

a. to d. No change.

401.113(4) to 401.113(9) No change.

401.113(10) Indexing. All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. If petitions or orders may contain information the board is authorized or required to keep confidential, the board may instruct the secretary to accordingly redact confidential information from petitions or orders prior to public inspection. Rules for which a petition for a waiver have been granted or denied are posted on the department’s website and available to the public.

401.113(11) Summary reports. ~~Summary information identifying~~ When the department grants a waiver, the department shall submit the required information on the department’s website within sixty days. The department’s website shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board’s actions on waiver requests shall be included in semiannual reports prepared by the agency rules administrator of the department which contain such information for administrative rules of the department. To the extent practicable, the department shall include information detailing the extent to which the granting of waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

401.113(12) to 401.113(15) No change.

401.113(16) Sample petition for waiver. A petition for waiver filed in accordance with this rule must meet the requirements specified herein and must substantially conform to the following form:

PUBLIC SAFETY PEACE OFFICERS’ RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM	
Petition by (name of petitioner) for the waiver/ variance of (insert rule citation) relating to (insert the subject matter).	} PETITION FOR WAIVER/VARIANCE

1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver or ~~variance~~). Also provide the name, address, and telephone number of the petitioner’s legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. to 4. No change.

- Why application of the rule would result in undue hardship to the petitioner;
- Why waiver of the rule would not prejudice the substantial legal rights of any person;
- Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
- How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

5. Provide a history of any prior contacts between the board, other departments or agencies of the state of Iowa, or political subdivisions and petitioner relating to the benefits or rights affected by the

PUBLIC SAFETY DEPARTMENT[661](cont'd)

requested waiver. Include a description of each contested case hearing held, or any investigations related to the benefits or rights.

6. and 7. No change.

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver ~~or variance~~.

9. and 10. No change.

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

(Date)

(Petitioner's Signature)

ARC 5659C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to computer peripherals and Iowa Code citations and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," and Chapter 230, "Exemptions Primarily Benefiting Manufacturers and Other Persons Engaged in Processing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.3 and 2020 Iowa Acts, House File 2641.

Purpose and Summary

Through 2020 Iowa Acts, House File 2641, the General Assembly added the term "computer peripheral" to an existing sales tax exemption in Iowa Code section 423.3(47) and defined that term in Iowa Code section 423.1. This proposed rule making adds that term to the Department's rule implementing that exemption as applicable.

While amending Chapter 230 to address this legislative change, the Department is also taking this opportunity to clean up a few other items in and related to those rules. First, the Department proposes to replace a variety of definitions of terms which are also defined in the Iowa Code with references to the appropriate Iowa Code citation. Second, the Department proposes to rescind rules 701—18.45(422,423) and 701—18.58(422,423), which implemented the exemption in Iowa Code section 423.3(47) prior to 2016. In doing this, the Department is moving the definition of the term "directly used" from rule 701—18.45(422,423) into Chapter 230; there is no change to the definition itself. Third, the Department proposes to update implementation references throughout Chapter 230 that have been out of date since sales tax was moved out of Iowa Code chapter 422 several years ago.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The Legislative Services Agency's fiscal note provided an estimated fiscal impact of \$0 for the section of 2020 Iowa Acts, House File 2641, that added this language to the Iowa Code.

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Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

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

Public Hearing

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

June 22, 2021
2 to 3 p.m.

Via video/conference call

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind and reserve rule **701—18.45(422,423)**.

ITEM 2. Rescind and reserve rule **701—18.58(422,423)**.

ITEM 3. Amend rule **701—230.2(423)**, implementation sentence, as follows:

This rule is intended to implement 2005 Iowa Code ~~Supplement subsection~~ section 423.3(49).

ITEM 4. Amend rule **701—230.3(423)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~423.3(49)~~ 423.3(50).

ITEM 5. Amend rule **701—230.4(423)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~423.3(50)~~ 423.3(51).

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ITEM 6. Amend rule **701—230.5(423)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code section ~~423.3(51)~~ 423.3(52).

ITEM 7. Amend rule **701—230.6(423)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code section ~~423.3(52)~~ 423.3(53).

ITEM 8. Amend rule **701—230.7(423)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code section ~~423.3(53)~~ 423.3(54).

ITEM 9. Amend subrule 230.8(1) as follows:

230.8(1) *Exempt sales and rentals of machinery and equipment.* The sales price from sales or rentals of core making, mold making, and sand handling machinery and equipment directly and primarily used by a foundry in the mold making process is exempt from tax. For the purposes of this rule, a “foundry” is an establishment where metal, but not plastic, is melted and poured into molds. A nonexclusive list of equipment which may be exempt under this rule includes sand storage tanks, conveyers, patterns, mallor controllers, and sand mixers. A nonexclusive list of items which would not be exempted by this rule includes sand and other materials (as opposed to equipment) used to build molds or cores, and supplies. Services used in the mold making process are not exempted from tax by this rule. For the purposes of this rule, core making, mold making, and sand handling equipment also include replacement parts necessary for the operation of the equipment which is used directly and primarily by a foundry in the mold making process. ~~Reference 701—subrule 18.58(1)~~ See subrule 230.14(2) for definitions of “directly used,” “equipment,” and “machinery,” and see Iowa Code section 423.3(47) “d” for definitions of “replacement part” and “supplies.”

ITEM 10. Amend rule **701—230.9(423)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code section ~~423.3(50)~~ 423.3(51).

ITEM 11. Amend rule **701—230.10(423)**, implementation sentence, as follows:
This rule is intended to implement ~~2007~~ Iowa Code ~~Supplement~~ section 423.3(92).

ITEM 12. Amend rule 701—230.14(423) as follows:

701—230.14(423) Exemption for the sale of computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies used for certain manufacturing purposes if the sale occurs on or after July 1, 2016. Rules 701—230.14(423) to 701—230.20(423) exempt the sales price of computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies when used in an exempt manufacturing purpose. Rule 701—230.21(423) exempts the purchase of fuel used in such computers, computer peripherals, machinery, and equipment. Rule 701—230.22(423) exempts the service of designing or installing such new industrial machinery and equipment. ~~Rules 701—230.14(423) to 701—230.22(423) apply to sales of such products occurring on or after July 1, 2016. For sales occurring prior to July 1, 2016, see rule 701—18.58(422,423).~~

230.14(1) Generally. The sales price of computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies is exempt from sales and use tax if the property is any of the following:

- a. Directly and primarily used in processing by a manufacturer (see rule 701—230.15(423)).
- b. Directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, computer peripherals, machinery, and equipment used in processing by a manufacturer, including test equipment used to control quality and specifications of the product (see rule 701—230.16(423)).
- c. Directly and primarily used in research and development of new products or processes of processing (see rule 701—230.17(423)).

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d. Computers or computer peripherals used in processing or storage of data or information by an insurance company, financial institution, or commercial enterprise (see rule 701—230.18(423)).

e. Directly and primarily used in recycling or reprocessing of waste products (see rule 701—230.19(423)).

f. Pollution-control equipment used by a manufacturer, including but not limited to that required or certified by an agency of this state or of the United States government (see rule 701—230.20(423)).

g. Fuel used in creating heat, power, steam, or for generating electrical current, or from the sale of electricity, consumed by computers, computer peripherals, machinery, or equipment used in an exempt manner described in paragraph “a,” “b,” “c,” “e,” or “f” (see rule 701—230.21(423)).

230.14(2) *Computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies.*

a. *Computers and computer peripherals.* ~~Rescinded by 2020 Iowa Acts, House File 2641, section 97, effective July 1, 2020. “Computer” and “computer peripheral” mean the same as defined in Iowa Code section 423.1.~~

b. *Machinery.* “Machinery” is any mechanical, electrical, or electronic device designed and used to perform some function and to produce a certain effect or result. The term includes not only the basic unit of the machinery, but also any adjunct or attachment necessary for the basic unit to accomplish its intended function. Machinery also includes all devices used or required to control, regulate, or operate a piece of machinery, provided such devices are directly connected with or are an integral part of the machinery and are used primarily for control, regulation, or operation of machinery. Other devices necessary to the operation of or used in conjunction with the operation of what would be ordinarily thought of as machinery are also considered to be machinery.

c. *Equipment.* In general usage, “equipment” refers to devices or tools used to produce a final product or achieve a given result. Exempt “equipment” under these rules includes tables on which property is assembled on an assembly line, if those tables are directly and primarily used in processing by a manufacturer.

d. *Replacement parts.* “Replacement part” means ~~tangible personal property other than computers, machinery, equipment, or supplies, regardless of the cost or useful life of the tangible personal property, that meets all of the following conditions:~~ the same as defined in Iowa Code section 423.3(47) “d.”

~~(1) The tangible personal property replaces a component of a computer, machinery, or equipment, which component is capable of being separated from the computer, machinery, or equipment;~~

~~(2) The tangible personal property performs the same or similar function as the component it replaced; and~~

~~(3) The tangible personal property restores the computer, machinery, or equipment to an operational condition, or upgrades or improves the efficiency of the computer, machinery, or equipment.~~

e. *Supplies.* “Supply” “Supplies” means ~~tangible personal property, other than computers, machinery, equipment, or replacement parts, that meets one of the following conditions:~~ the same as defined in Iowa Code section 423.3(47) “d.”

~~(1) The tangible personal property is to be connected to a computer, machinery, or equipment and requires regular replacement because the item is consumed or deteriorates during use. Such supplies include, but are not limited to, saw blades, drill bits, filters, and other similar items with a short useful life.~~

~~(2) The tangible personal property is used in conjunction with a computer, machinery, or equipment and is specially designed for use in manufacturing specific products and may be used interchangeably and intermittently on a particular computer, machine, or piece of equipment. Such supplies include, but are not limited to, jigs, dies, tools, and other similar items.~~

~~(3) The tangible personal property comes into physical contact with other tangible personal property used in processing and is used to assist with or maintain conditions necessary for processing. Such supplies include, but are not limited to, cutting fluids, oils, coolants, lubricants, and other similar items with a short useful life.~~

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~~(4) The tangible personal property is directly and primarily used in an activity described in rules 701—230.14(423) to 701—230.20(423). Such supplies include, but are not limited to, prototype materials and testing materials.~~

f. Materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies. “Materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies” means tangible personal property that is incorporated into a computer, computer peripheral, machinery, equipment, replacement part, or supply when the computer, computer peripheral, machinery, equipment, replacement part, or supply is constructed or assembled.

g. Exclusions. Sales of the following property, or materials used to construct or self-construct the following property, are not exempt under rules 701—230.14(423) to 701—230.20(423) regardless of how the property is used.

(1) Land.

(2) Intangible property.

(3) Hand tools. “Hand tool” means a tool that can be held in the hand or hands and is powered by human effort.

(4) Point-of-sale equipment, and computers, and computer peripherals. “Point-of-sale equipment, and computers, and computer peripherals” means input, output, and processing equipment, and computers, and computer peripherals used to consummate a sale and to record or process information pertaining to a sale transaction at the time the sale takes place and is located at the counter, desk, or other specific point where the transaction occurs. Point-of-sale equipment, and computers, and computer peripherals do not include equipment, and computers, and computer peripherals used primarily for depositing or withdrawing funds from financial institution accounts.

(5) Certain centrally assessed industrial machinery, equipment, and computers, and computer peripherals. Property that is centrally assessed by the department of revenue under Iowa Code sections 428.24 to 428.29 or chapters 433, 434, 437, 437A, 437B, and 438 does not qualify for exemption under rules 701—230.14(423) to 701—230.20(423). Property used but not owned by persons whose property is defined by such provisions of the Iowa Code, which would be assessed by the department of revenue if the persons owned the property, also does not qualify for exemption under rules 701—230.14(423) to 701—230.20(423).

(6) Vehicles subject to registration. The general sales and use tax does not apply to vehicles subject to registration under Iowa Code chapter 321. Instead, such vehicles are subject to the fee for new registration under Iowa Code section 321.105A. Vehicles subject to registration are not exempt from the fee for new registration under rules 701—230.14(423) to 701—230.20(423), unless the vehicle is directly and primarily used in recycling or reprocessing of waste products (see rule 701—230.19(423)).

h. Examples. When used for an exempt purpose under rules 701—230.14(423) to 701—230.20(423), the following items may be exempt computers, computer peripherals, machinery, equipment, replacement parts, or supplies. This list is not all-inclusive.

(1) Coolers, including coolers that do not change the nature of materials stored in them.

(2) Equipment that eliminates bacteria.

(3) Palletizers.

(4) Storage bins.

(5) Property used to transport raw, semifinished, or finished goods.

(6) Vehicle-mounted cement mixers.

(7) Self-constructed machinery and equipment.

(8) Packaging and bagging equipment, including conveyer systems.

(9) Equipment that maintains an environment necessary to preserve a product’s integrity.

(10) Equipment that maintains a product’s integrity directly.

(11) Quality control equipment.

(12) Water used for cooling.

230.14(3) Leased and rented property. The exemptions under rules 701—230.14(423) to 701—230.22(423) apply to property regardless of how it is sold, including leased or rented property.

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The lease of computers, computer peripherals, machinery, equipment, replacement parts, or supplies may be exempt from sales and use tax if the lessee uses the property in an exempt manner under rules 701—230.14(423) to 701—230.20(423). Additionally, a lessor's purchase of computers, computer peripherals, machinery, equipment, replacement parts, or supplies for lease or resale may be an exempt sale for resale under Iowa Code section 423.3(2).

230.14(4) Record keeping. Individuals claiming an exemption must always be able to prove they qualify for the exemption. To claim the exemptions described in this rule, purchasers must be able to prove that computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct the same are used for an exempt purpose under rules 701—230.14(423) to 701—230.20(423). When both exempt and nonexempt machinery and equipment are used in the same facility, replacement parts and supplies used in the machinery and equipment are exempt under these rules only to the extent the purchaser can prove which replacement parts and supplies were used in the exempt machinery and equipment. Detailed, contemporaneous records should be maintained to verify that qualifying property is used for an exempt purpose. The precise records required may vary from purchaser to purchaser. Computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct the same are not exempt under rules 701—230.14(423) to 701—230.20(423) if the property is not used for an exempt purpose.

This rule is intended to implement Iowa Code section 423.3(47) as amended by 2016 Iowa Acts, House File 2433 2020 Iowa Acts, House File 2641.

ITEM 13. Amend rule 701—230.15(423) as follows:

701—230.15(423) Exemption for the sale of property directly and primarily used in processing by a manufacturer if the sale occurs on or after July 1, 2016. The sales price of computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies is exempt from sales and use tax when the property is directly and primarily used in processing by a manufacturer. ~~For sales occurring prior to July 1, 2016, see rule 701—18.58(422,423).~~

230.15(1) Required elements. To qualify for exemption under this rule, the purchaser must prove the property is:

a. Computers, computer peripherals, machinery, equipment, replacement parts, supplies, or materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, or supplies (see subrule 230.14(2));

b. to e. No change.

230.15(2) No change.

230.15(3) Processing.

a. Generally. ~~“Processing” means a series of operations in which materials are manufactured, refined, purified, created, combined, transformed, or stored by a manufacturer, ultimately into tangible personal property. Processing encompasses all activities commencing with the receipt or producing of raw materials by the manufacturer and ending at the point products are delivered for shipment or transferred from the manufacturer. Processing includes, but is not limited to, refinement or purification of materials; treatment of materials to change their form, context, or condition; maintenance of the quality or integrity of materials, components, or products; maintenance of environmental conditions necessary for materials, components, or products; quality control activities; construction of packaging and shipping devices; placement into shipping containers or any type of shipping device or medium; and the movement of materials, components, or products until shipment from the processor. “Receipt or producing of raw materials” means activities performed upon tangible personal property only. and “receipt or producing of raw materials” mean the same as defined in Iowa Code section 423.3(47) “d.”~~ With respect to raw materials produced from or upon real estate, “production of raw materials” is deemed to occur immediately following the severance of the raw materials from the real estate.

b. to d. No change.

230.15(4) and 230.15(5) No change.

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230.15(6) Replacement parts and supplies.

a. Replacement parts. To qualify for exemption under this rule, replacement parts must satisfy the definition contained in ~~paragraph 230.14(2)“d.”~~ Iowa Code section 423.3(47)“d.” In addition to the other requirements, an exempt replacement part must replace a component of a computer, computer peripheral, machinery, or equipment that is directly and primarily used in processing by a manufacturer. Tangible personal property is not an exempt replacement part under this rule if the property exclusively replaces a component of a computer, computer peripheral, machinery, or equipment that is not directly and primarily used in processing by a manufacturer.

b. Supplies. To qualify for exemption under this rule, supplies must satisfy the definition contained in ~~paragraph 230.14(2)“e.”~~ Iowa Code section 423.3(47)“d.” In addition to the other requirements, an exempt supply must be connected to, be used in conjunction with, or come into physical contact with a computer, computer peripheral, machinery, or equipment that is directly and primarily used in processing by a manufacturer, or an exempt supply must itself be directly and primarily used in processing by a manufacturer. Tangible personal property is not an exempt supply under this rule if the property exclusively is connected to, is used in conjunction with, or comes into physical contact with a computer, computer peripheral, machinery, or equipment that is not directly and primarily used in processing by a manufacturer.

This rule is intended to implement Iowa Code section 423.3(47)“a”(1).

ITEM 14. Amend rule 701—230.16(423) as follows:

701—230.16(423) Exemption for the sale of property directly and primarily used by a manufacturer to maintain integrity or unique environmental conditions if ~~the sale occurs on or after July 1, 2016.~~ The sales price of computers, computer peripherals, machinery, equipment, replacement parts, supplies and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies is exempt from sales and use tax when the property is directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, computer peripherals, machinery, and equipment used in processing by a manufacturer, including test equipment used to control quality and specifications of the product. ~~For sales occurring prior to July 1, 2016, see rule 701—18.58(422,423).~~

230.16(1) Required elements. To qualify for exemption under this rule, the purchaser must prove the property is:

a. Computers, computer peripherals, machinery, equipment, replacement parts, supplies, or materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, or supplies (see subrule 230.14(2));

b. Directly used (see subrule 230.15(2));

c. Primarily used (see subrule 230.15(2));

d. Used by a manufacturer (see subrule 230.15(4)); and

e. Used to maintain:

(1) A manufactured product’s integrity;

(2) Unique environmental conditions required for a manufactured product; or

(3) Unique environmental conditions required for other computers, computer peripherals, machinery, equipment, replacement parts, or supplies directly and primarily used in processing by a manufacturer.

230.16(2) Replacement parts and supplies.

a. Replacement parts. To qualify for exemption under this rule, replacement parts must satisfy the definition contained in ~~paragraph 230.14(2)“d.”~~ Iowa Code section 423.3(47)“d.” In addition to the other requirements, an exempt replacement part must replace a component of a computer, computer peripheral, machinery, or equipment that is directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, computer peripherals, machinery, and equipment used in processing by a manufacturer. Tangible personal property is not an exempt replacement part under this rule if the property exclusively replaces

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a component of a computer, computer peripheral, machinery, or equipment that is not directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, computer peripherals, machinery, and equipment used in processing by a manufacturer.

b. Supplies. To qualify for exemption under this rule, supplies must satisfy the definition contained in ~~paragraph 230.14(2)“e.”~~ Iowa Code section 423.3(47)“d.” In addition to the other requirements, an exempt supply must be connected to, be used in conjunction with, or come into physical contact with a computer, computer peripheral, machinery, or equipment that is directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, computer peripherals, machinery, and equipment used in processing by a manufacturer, or an exempt supply must itself be directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, computer peripherals, machinery, and equipment used in processing by a manufacturer. Tangible personal property is not an exempt supply under this rule if the property exclusively is connected to, is used in conjunction with, or comes into physical contact with a computer, computer peripheral, machinery, or equipment that is not directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, computer peripherals, machinery, and equipment used in processing by a manufacturer.

230.16(3) No change.

This rule is intended to implement Iowa Code section 423.3(47)“a”(2).

ITEM 15. Amend rule 701—230.17(423) as follows:

701—230.17(423) Exemption for the sale of property directly and primarily used in research and development of new products or processes of processing if the sale occurs on or after July 1, 2016. The sales price of computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies is exempt from sales and use tax when the property is directly and primarily used in research and development of new products or processes of processing. For sales occurring prior to July 1, 2016, see rule 701—18.58(422,423).

230.17(1) Required elements. To qualify for exemption under this rule, the purchaser must prove the property is:

a. Computers, computer peripherals, machinery, equipment, replacement parts, supplies, or materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, or supplies (see subrule 230.14(2));

b. to d. No change.

230.17(2) and **230.17(3)** No change.

230.17(4) Replacement parts and supplies.

a. Replacement parts. To qualify for exemption under this rule, replacement parts must satisfy the definition contained in ~~paragraph 230.14(2)“d.”~~ Iowa Code section 423.3(47)“d.” In addition to the other requirements, an exempt replacement part must replace a component of a computer, computer peripheral, machinery, or equipment that is directly and primarily used in research and development of new products or processes of processing. Tangible personal property is not an exempt replacement part under this rule if the property exclusively replaces a component of a computer, computer peripheral, machinery, or equipment that is not directly and primarily used in research and development of new products or processes of processing.

b. Supplies. To qualify for exemption under this rule, supplies must satisfy the definition contained in ~~paragraph 230.14(2)“e.”~~ Iowa Code section 423.3(47)“d.” In addition to the other requirements, an exempt supply must be connected to, be used in conjunction with, or come into physical contact with a computer, computer peripheral, machinery, or equipment that is directly and primarily used in research and development of new products or processes of processing, or an exempt supply must itself be directly and primarily used in research and development of new products or processes of processing. Tangible personal property is not an exempt supply under this rule if the property exclusively is connected

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to, is used in conjunction with, or comes into physical contact with a computer, computer peripheral, machinery, or equipment that is not directly and primarily used in research and development of new products or processes of processing.

230.17(5) No change.

This rule is intended to implement Iowa Code section 423.3(47) “a”(3).

ITEM 16. Amend rule 701—230.18(423) as follows:

701—230.18(423) Exemption for the sale of computers and computer peripherals used in processing or storage of data or information by an insurance company, financial institution, or commercial enterprise if the sale occurs on or after July 1, 2016. The sales price of computers and computer peripherals is exempt from sales and use tax when the computers and computer peripherals are used in processing or storage of data or information by an insurance company, financial institution, or commercial enterprise. The sales price of machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies is not exempt under this rule. For sales occurring prior to July 1, 2016, see rule 701—18.58(422,423).

230.18(1) Required elements. To qualify for exemption under this rule, the purchaser must prove the property is:

- a. Computers or computer peripherals (see ~~paragraph 230.14(2)“a”~~ Iowa Code section 423.1);
- b. Used in processing or storage of data or information (see subrule 230.18(2)); and
- c. Used by:
 - (1) An insurance company (see subrule 230.18(3));
 - (2) A financial institution (see subrule 230.18(3)); or
 - (3) A commercial enterprise (see subrule 230.18(3)).

230.18(2) Processing or storage of data or information. All computers store and process information. However, only if the “final output” for a user or consumer is stored or processed data will the computer be eligible for exemption from tax under this rule.

230.18(3) Insurance company, financial institution, or commercial enterprise.

a. ~~Insurance company. An insurance company is an insurer organized or operating under Iowa Code chapter 508, 514, 515, 518, 518A, 519, or 520 or an insurer authorized to do business in Iowa as an insurer or as a licensed insurance producer under Iowa Code chapter 522B.~~ “Insurance company” means the same as defined in Iowa Code section 423.3(47)“d.” Excluded from the definition of “insurance company” are benevolent associations governed by Iowa Code chapter 512A, fraternal benefit societies governed by Iowa Code chapter 512B, and health maintenance organizations governed by Iowa Code chapter 514B. This list of exclusions is not intended to be exclusive.

b. ~~Financial institution. A financial institution is any bank incorporated under the provisions of any state or federal law, any savings and loan association incorporated under the provisions of federal law, any credit union organized under the provisions of any state or federal law, any corporation licensed as an industrial loan company under Iowa Code chapter 536A, and any affiliate of a bank, savings and loan association, credit union, or industrial loan company.~~ “Financial institution” means the same as defined in Iowa Code section 527.2.

c. ~~Commercial enterprise. A commercial enterprise is a business or manufacturer conducted for profit, other than an insurance company or financial institution. “Commercial enterprise” includes centers for data processing services to insurance companies, financial institutions, businesses, and manufacturers, but excludes professions and occupations as well as nonprofit organizations. A hospital that is a not-for-profit organization is not a commercial enterprise. The term “profession” means a vocation or employment requiring specialized knowledge and often long and intensive academic preparation. The term “occupation” means the principal business of an individual, such as the business of farming. A professional entity that carries on any profession or occupation, such as an accounting firm, is not a commercial enterprise.~~ means the same as defined in Iowa Code section 423.3(47)“d.”

230.18(4) Exempt property. To qualify for exemption under this rule, tangible personal property must satisfy the definition of “computers” or “computer peripherals” contained in paragraph

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~~230.14(2)“a.”~~ Iowa Code section 423.1. Other property, including machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies, is not exempt under this rule, even if the property is used in processing or storage of data or information by an insurance company, financial institution, or commercial enterprise.

230.18(5) No change.

This rule is intended to implement Iowa Code section 423.3(47)“a”(4).

ITEM 17. Amend rule 701—230.19(423) as follows:

701—230.19(423) Exemption for the sale of property directly and primarily used in recycling or reprocessing of waste products if the sale occurs on or after July 1, 2016. The sales price of computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies is exempt from sales and use tax when the property is directly and primarily used in recycling or reprocessing of waste products. ~~For sales occurring prior to July 1, 2016, see rule 701—18.58(422,423).~~

230.19(1) Required elements. To qualify for exemption under this rule, the purchaser must prove the property is:

a. Computers, computer peripherals, machinery, equipment, replacement parts, supplies, or materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, or supplies (see subrule 230.14(2));

b. to d. No change.

230.19(2) No change.

230.19(3) Replacement parts and supplies.

a. Replacement parts. To qualify for exemption under this rule, replacement parts must satisfy the definition contained in ~~paragraph 230.14(2)“d.”~~ Iowa Code section 423.3(47)“d.” In addition to the other requirements, an exempt replacement part must replace a component of a computer, computer peripheral, machinery, or equipment that is directly and primarily used in recycling or reprocessing of waste products. Tangible personal property is not an exempt replacement part under this rule if the property exclusively replaces a component of a computer, computer peripheral, machinery, or equipment that is not directly and primarily used in recycling or reprocessing of waste products.

b. Supplies. To qualify for exemption under this rule, supplies must satisfy the definition contained in ~~paragraph 230.14(2)“e.”~~ Iowa Code section 423.3(47)“d.” In addition to the other requirements, an exempt supply must be connected to, be used in conjunction with, or come into physical contact with a computer, computer peripheral, machinery, or equipment that is directly and primarily used in recycling or reprocessing of waste products, or an exempt supply must itself be directly and primarily used in recycling or reprocessing of waste products. Tangible personal property is not an exempt supply under this rule if the property exclusively is connected to, is used in conjunction with, or comes into physical contact with a computer, computer peripheral, machinery, or equipment that is not directly and primarily used in recycling or reprocessing of waste products.

230.19(4) Examples.

a. Computers, computer peripherals, machinery, and equipment that may be exempt from sales and use tax under this rule include, but are not limited to, compactors, balers, crushers, grinders, cutters, and shears if directly and primarily used in recycling or reprocessing.

b. to d. No change.

EXAMPLE A: Company A recycles household waste. Company A uses several machines in its facility to separate waste products into recyclable and nonrecyclable materials and to further separate the recyclable materials into paper, plastic, or glass. The sales prices of all separating machines are exempt from sales and use tax as machines directly and primarily used in recycling of waste products.

EXAMPLE B: Company B uses grinding machines to convert logs, stumps, pallets, crates, and other waste wood into wood chips. Company B then uses its trucks to deliver the wood chips to local purchasers. The sales prices of the grinding machines are exempt from sales and use tax as machines

REVENUE DEPARTMENT[701](cont'd)

directly and primarily used in recycling or reprocessing of waste products. The trucks used to transport the wood chips are not used in recycling or reprocessing because the wood chips are in their final form when loaded onto the trucks.

This rule is intended to implement Iowa Code sections 321.105A(2) “c”(24) and 423.3(47) “a”(5).

ITEM 18. Amend rule 701—230.20(423), introductory paragraph, as follows:

701—230.20(423) Exemption for the sale of pollution-control equipment used by a manufacturer if the sale occurs on or after July 1, 2016. The sales price of pollution-control equipment, including but not limited to equipment required or certified by an agency of Iowa or of the United States government, is exempt from sales and use tax when the property is used by a manufacturer. Other equipment, and computers, computer peripherals, machinery, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies are not exempt from sales and use tax under this rule. ~~For sales occurring prior to July 1, 2016, see rule 701—18.58(422,423).~~

ITEM 19. Amend rule 701—230.21(423) as follows:

701—230.21(423) Exemption for the sale of fuel or electricity used in exempt property if the sale occurs on or after July 1, 2016. The sales price of fuel or electricity consumed by computers, computer peripherals, machinery, or equipment that is exempt from sales and use tax under rule 701—230.14(423), 701—230.15(423), 701—230.16(423), 701—230.17(423), 701—230.19(423), or 701—230.20(423) is also exempt from sales and use tax. The sales price of electricity or other fuel consumed by replacement parts, supplies, ~~or computers, or computer peripherals~~ used in processing or storage of data or information by an insurance company, financial institution, or commercial enterprise remains subject to tax even if such property is exempt under rules 701—230.14(423) to 701—230.20(423). ~~For sales occurring prior to July 1, 2016, see rule 701—18.58(422,423).~~

EXAMPLE: A manufacturer operates a power plant. The manufacturer uses energy from the power plant to operate machinery and equipment used directly and primarily in processing at its manufacturing facility. The fuel consumed in the manufacturer’s power plant is exempt from sales and use tax.

This rule is intended to implement Iowa Code section 423.3(47) “b.”

ITEM 20. Amend rule 701—230.22(423) as follows:

701—230.22(423) Exemption for the sale of services for designing or installing new industrial machinery or equipment if the sale occurs on or after July 1, 2016. The sales price from the services of designing or installing new industrial machinery or equipment is exempt from sales and use tax. The enumerated services of electrical or electronic installation are included in this exemption.

230.22(1) to 230.22(3) No change.

230.22(4) Industrial machinery or equipment.

a. Generally. “Industrial machinery or equipment” means machinery or equipment, as defined in subrule 230.14(2). The sale of industrial machinery or equipment must also qualify for exemption under any of the following:

(1) Property used directly and primarily in processing by a manufacturer (see rule 701—230.15(423)).

(2) Property used directly and primarily by a manufacturer to maintain the integrity of the manufacturer’s product or to maintain unique environmental conditions for computers, computer peripherals, machinery, or equipment (see rule 701—230.16(423)).

(3) Property used directly and primarily in research and development of new products or processes of processing (see rule 701—230.17(423)).

(4) Property used directly and primarily in recycling or reprocessing of waste products (see rule 701—230.19(423)).

(5) Pollution-control equipment used by a manufacturer (see rule 701—230.20(423)).

REVENUE DEPARTMENT[701](cont'd)

b. Exclusions. The following property is not industrial machinery or equipment regardless of how the purchaser uses it:

- (1) Computers or computer peripherals (see ~~paragraph 230.14(2) "a"~~ Iowa Code section 423.1).
- (2) Replacement parts (see ~~paragraph 230.14(2) "d"~~ Iowa Code section 423.3(47) "d").
- (3) Supplies (see ~~paragraph 230.14(2) "e"~~ Iowa Code section 423.3(47) "d").
- (4) Materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, or supplies (see paragraph 230.14(2) "f").

230.22(5) Billing. The sales price for designing or installing new industrial machinery or equipment must be separately identified, charged separately, and reasonable in amount for the exemption to apply. The exemption applies to new industrial machinery or equipment regardless of how it is purchased, including leased or rented machinery or equipment.

EXAMPLE: Dealer sells and installs two new machines for Manufacturer. Manufacturer uses one machine on its production floor, where the machine is directly and primarily used in processing. Manufacturer uses the other machine in its machine shop, where the machine is not directly and primarily used in processing. Dealer gives an invoice to Manufacturer that separately itemizes the sales prices for each machine and each installation. The machine used on the production floor is new industrial machinery or equipment, and the sales prices of the machine and its installation are exempt from sales and use tax. The machine used in the machine shop is not new industrial machinery or equipment, and the sales prices of the machine and its installation are taxable.

This rule is intended to implement Iowa Code section 423.3(48).

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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

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

The Iowa Department of Veterans Affairs hereby proposes to amend Chapter 4, "Agency Procedure for Rule Making," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 35A.5(12).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A and 2020 Iowa Acts, House File 2389.

Purpose and Summary

The proposed amendment updates rule 801—4.14(17A,35D) in accordance with changes to Iowa Code section 17A.9A as required by 2020 Iowa Acts, House File 2389, section 10. The legislation called for the deletion of the word "variance" when the word is used in relation to "waiver."

Fiscal Impact

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

Jobs Impact

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

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Melissa Miller
Iowa Department of Veterans Affairs
Camp Dodge, Bldg. #3465
7105 NW 70th Avenue
Johnston, Iowa 50131
Email: melissa.miller2@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 801—4.14(17A,35D) as follows:

801—4.14(17A,35D) Uniform waiver rule.

4.14(1) To the extent a waiver ~~or variance~~ is consistent with applicable statute, constitutional provision, or other provision of law, the commission of veterans affairs may issue an order, in response to the timely filing of a completed petition or on its own motion, granting a waiver ~~or variance~~, in whole or in part, from the requirements of a rule under the jurisdiction of said commission, as applied to the circumstances of a specified person, if the commission finds clear and convincing evidence of all of the following:

- a. The application of the rule to the person at issue would result in undue hardship to that person; and
- b. The provisions of a rule subject to a petition for a waiver ~~or variance~~ are not specifically mandated by statute or another provision of law; and
- c. The waiver of the rule in the specific case would not prejudice the substantial legal rights of any person; and
- d. Substantially equal protection of public health, safety and welfare will be afforded by a means other than that prescribed in the rule for which the waiver ~~or variance~~ is requested.

The decision on whether the circumstances justify the granting of a waiver ~~or variance~~ shall be made at the discretion of the chairperson of the commission of veterans affairs based on the unique, individual circumstances set out in the petition and upon consideration of all relevant factors.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

4.14(2) A waiver ~~or variance~~, if granted, shall be drafted by the commission so as to provide the narrowest exception possible to the provisions of the rule. The commission may place any condition on a waiver ~~or variance~~ that the commission finds desirable to protect the public health, safety and welfare. A waiver ~~or variance~~ shall not be permanent, unless the petitioner can show that a temporary waiver ~~or variance~~ would be impracticable. If a temporary waiver ~~or variance~~ is granted, there is no automatic right to renewal. At the sole discretion of the agency, a waiver ~~or variance~~ may be renewed if the agency finds that all of the factors set out in subrule 4.14(1) remain valid.

4.14(3) The burden of persuasion rests with the person who petitions the commission for the waiver ~~or variance~~ of a rule.

4.14(4) This uniform waiver rule shall not preclude the commission from granting waivers ~~or variances~~ in other contexts or on the basis of other standards if the statute or other rules authorize it to do so and the commission deems it appropriate to do so.

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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

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

The Iowa Department of Veterans Affairs hereby proposes to amend Chapter 4, “Agency Procedure for Rule Making,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 35A.5(12).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A and 2020 Iowa Acts, House File 2389.

Purpose and Summary

The proposed amendment updates rule 801—4.15(17A,35D) in accordance with changes to Iowa Code section 17A.9A as required by 2020 Iowa Acts, House File 2389, section 10. The legislation called for the deletion of the word “variance” when the word is used in relation to “waiver.”

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

Melissa Miller
Iowa Department of Veterans Affairs
Camp Dodge, Bldg. #3465
7105 NW 70th Avenue
Johnston, Iowa 50131
Email: melissa.miller2@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 801—4.15(17A,35D) as follows:

801—4.15(17A,35D) Procedures for granting waivers.

4.15(1) Any person may file a petition with the commission of veterans affairs requesting a waiver ~~or variance~~, in whole or in part, of a commission rule on the grounds that the application of the rule to the particular circumstances of that person justifies a waiver under this uniform waiver rule. The commission chairperson shall receive written petitions.

4.15(2) A petition for a waiver ~~or variance~~ shall include the following information where applicable and known to the person requesting the waiver ~~or variance~~:

- a. The name, address, and case number or state identification number of the entity or person for whom a waiver ~~or variance~~ is requested.
- b. A description and citation of the specific rule from which a waiver ~~or variance~~ is requested.
- c. The specific waiver ~~or variance~~ requested, including the precise scope and operative period that the waiver ~~or variance~~ will extend.
- d. The relevant facts that the petitioner believes would justify a waiver ~~or variance~~. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver ~~or variance~~.
- e. A history of the commission’s action relative to the petitioner.
- f. Any information regarding the commission’s treatment of similar cases, if known.
- g. The name, address, and telephone number of any person inside or outside state government who would be adversely affected by the granting of the petition or who otherwise possesses knowledge of the matter with respect to the waiver ~~or variance~~ request.
- h. Signed releases of information authorizing persons with knowledge regarding the request to furnish the commission with information pertaining to the waiver ~~or variance~~.

4.15(3) The procedural guidelines stated under the Iowa Administrative Procedure Act, Iowa Code chapter 17A, shall govern the form, filing, timing and contents of petitions for the waivers of rules and the procedural rights of persons in relation to such petitions.

4.15(4) The commission shall acknowledge a petition upon receipt. The petitioner shall serve notice on all persons to whom notice is required by any provision of law and provide a written statement to the commission attesting that notice has been served.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

4.15(5) Prior to issuing an order granting or denying a waiver or variance request, the commission may request additional information from the petitioner relative to the application and surrounding circumstances.

4.15(6) An order granting or denying a request for waiver or variance shall be in writing and contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which that action is based, and a description of the precise scope and operative period of the waiver or variance if one is issued. The commission shall grant or deny a petition for the waiver or variance of all or a portion of a rule as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a waiver petition has been filed in a contested case proceeding, the agency shall grant or deny the petition no later than the time at which the final decision in that contested case is issued. Failure of the commission to grant or deny such a petition within the required time period shall be deemed a denial of that petition by the commission.

4.15(7) Within seven days of its issuance, any order issued under the uniform waiver rule shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

4.15(8) Subject to the provisions of Iowa Code section 17A.3(1)“e,” the commission shall maintain a record of all orders granting and denying requests for waivers or variances under this uniform waiver rule. The records shall be indexed by rule and available for public inspection.

4.15(9) ~~Semiannually, the commission shall prepare a report identifying~~ Within 60 days of granting or denying a waiver, the commission shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver or variance has been granted or denied, the number of times a waiver or variance was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, a general summary of the reasons justifying the commission’s actions on the waiver or variance requests and, to the extent practicable, detailing the extent to which the granting of a waiver or variance has affected the general applicability of the rule itself and established a precedent for additional waivers or variances. ~~Copies of this report shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

4.15(10) The provisions of rules 801—4.14(17A,35D) and 801—4.15(17A,35D) shall not apply to rules that define the meaning of a statute or other provisions of law or precedent if the commission does not possess delegated authority to bind the courts to any extent with its definition and do not authorize the commission to waive any requirement created or duty imposed by statute.

4.15(11) After the commission issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is invoked.

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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

**Proposing rule making related to Iowa veterans home
and providing an opportunity for public comment**

The Commission of Veterans Affairs hereby proposes to amend Chapter 10, “Iowa Veterans Home,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 35D.3.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 35D.

Purpose and Summary

The intent of the proposed amendments is to update the rules relating to the Iowa Veterans Home procedures and to comply with 2020 Iowa Acts, House File 2312, required rule making.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Penny Cutler-Bermudez
Iowa Veterans Home
1301 Summit Street
Marshalltown, Iowa 50158
Phone: 641.753.4352
Fax: 641.753.4278
Email: penny.cutlerbermudez@ivh.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **801—10.1(35D)**, definition of “Collaborative care plan,” as follows:
“*Collaborative care plan*” means the plan of care developed for a member by the ~~interdisciplinary~~ resident care committee.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

ITEM 2. Amend rule **801—10.1(35D)**, definition of “Legal representative,” as follows:

“*Legal representative*” for purposes of applicant or member personal and care decisions means durable power of attorney for health care, guardian, or next-of-kin (spouse, adult children, parents, adult siblings), ~~as provided in Iowa Code chapters 144A, 144B, and 633.~~ For applicant or member financial decisions, “legal representative” means conservator, power of attorney, fiduciary or representative payee or next-of-kin (spouse, adult children, parents, adult siblings).

ITEM 3. Rescind the definition of “Interdisciplinary resident care committee” in rule **801—10.1(35D)**.

ITEM 4. Adopt the following new definition of “Resident care committee” in rule **801—10.1(35D)**:

“*Resident care committee*” or “*RCC*” means the member, a social worker, a registered nurse, a dietitian, a medical provider, a recreation specialist and a mental health provider, as required, who are involved in reviewing the member’s assessment data and developing a collaborative care plan for the individual member.

ITEM 5. Adopt the following new definition of “Visitation” in rule **801—10.1(35D)**:

“*Visitation*” is considered part of the individual’s therapeutic program. Visits are expected to benefit the individual’s treatment goals while meeting the security needs of the facility and ensuring the safety of the individual and visitor.

ITEM 6. Amend paragraph **10.2(1)“f”** as follows:

f. Individuals admitted to the domiciliary level of care must meet DVA criteria stated in Department of Veterans Affairs, State Veterans Homes Home Per Diem Program, Veterans Health Administration, ~~M-1, Part 1, Chapter 3.11(h) (1), (2), and (3), and have prior DVA approval if the individual’s income level exceeds the established cap~~ Directive 1610SH.01(1).

ITEM 7. Amend paragraph **10.3(2)“d”** as follows:

d. Website: www.iowaveteranshome.org ivh.iowa.gov.

ITEM 8. Amend subrule 10.3(3) as follows:

10.3(3) ~~The applicant shall be scheduled for a~~ provide a copy of a physical which has been completed within three months of application. If needed, a physical examination by a medical shall be scheduled by the applicant’s primary care provider, and the results of the examination shall be entered on the application by the examining medical provider. If the applicant has had a complete physical examination within three months of application, a copy of this physical shall suffice. Information must be authenticated by the medical provider’s original signature or electronic signature.

ITEM 9. Rescind paragraph **10.3(4)“a.”**

ITEM 10. Reletter paragraphs **10.3(4)“b”** to **“i”** as **10.3(4)“a”** to **“h.”**

ITEM 11. Amend relettered paragraph **10.3(4)“a”** as follows:

a. A copy of the veteran’s honorable discharge (DD214) from the armed forces of the United States.

ITEM 12. Amend relettered paragraph **10.3(4)“e”** as follows:

e. A copy of the marriage license(s), divorce decrees decree(s) or death certificate ~~for~~ of the spouse, if as applicable.

ITEM 13. Amend subrule 10.6(2) as follows:

10.6(2) Upon arrival at IVH, the applicant or legal representative shall meet with the admissions ~~office and resident finance office~~ staff for an admission interview.

ITEM 14. Amend subrule 10.6(3) as follows:

10.6(3) During the interview ~~in the admissions office with the admissions coordinator,~~ the following items will be reviewed and signed by the applicant or legal representative:

- a.* Permission for Treatment, Form 475-0814.
- b.* The “Contractual Agreement,” Form 475-1833.
- c.* The applicant’s resources.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

d. The member support, billing process and banking services.

ITEM 15. Rescind subrule **10.6(4)**.

ITEM 16. Renumber subrules **10.6(5)** to **10.6(7)** as **10.6(4)** to **10.6(6)**.

ITEM 17. Amend paragraph **10.14(3)“c”** as follows:

c. The first ten days of each hospitalization. On the eleventh day the member's bed shall be held without charge until the termination of hospital stay and member returns to IVH. After ten days, IVH assumes the authority to discharge the resident but reserves the right to negotiate an extension to the bed hold, if warranted, in the best interest of the resident and family, at the discretion of the commandant or designee. A hospital stay may occur more than once in a calendar year.

ITEM 18. Amend paragraph **10.16(2)“c”** as follows:

c. Assets of a married member with spouse in a care facility. If a member's spouse is residing in a nursing facility, the member shall be treated as a single member for asset determination purposes. If the member and the spouse become members of IVH on the same day, all resources of both members shall be added together and split one-half to each member for asset determination purposes. If the spouse is residing in a residential care facility or an assisted living facility, the rules pertaining to a spouse living in the community apply.

ITEM 19. Amend paragraph **10.16(2)“d”** as follows:

d. Assets of a married member with spouse living in the community. When liquid assets not exempted in paragraph “a” above are equal to or exceed \$2,000, those liquid assets shall be considered an available resource for the payment of member support. ~~These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least \$140.~~

The assets attributed to the member shall be determined from the documented assets of both the member and spouse living in the community as of the first day of admission to IVH. All resources of both the member and the spouse shall be added together. If the total resources are less than \$24,000 ~~(the amount set by 441 IAC 75.5(3)“d” and “f,” Public Law 100-365 and Public Law 100-485)~~ the predetermined amount set by the department of human services, then that amount shall be protected for the spouse living in is awarded to the community spouse. ~~If The amount in excess of this predetermined figure, up to an equal amount, if applicable, the next \$24,000 shall be awarded to the member. Any resources over \$48,000 this combined amount shall be split one-half to the member and one-half to the spouse up to a predetermined maximum amount set by the department of human services. All resources over the predetermined maximum amount shall be awarded to the member unless it is determined that the member would never be eligible for Medicaid benefits; in this circumstance, assets will be split one-half to the member and one-half to the spouse. Other resources attributed to the spouse living in the community shall be determined by the department of human services through the attribution process~~ These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least \$140.

(1) to (3) No change.

ITEM 20. Amend subrule 10.17(3) as follows:

10.17(3) An applicant or legal representative shall not knowingly and intentionally divest an asset, as set out in subrule 10.17(1), within the period established by Title XIX statute prior to admission, with the intention of reducing the applicant's member support or of obtaining admission to IVH.

When it is determined by the commandant or designee that an applicant did intentionally divest an asset, upon admission that applicant shall may be charged member support as if the divestment did not occur.

ITEM 21. Amend subrule 10.17(4) as follows:

10.17(4) A member or legal representative shall not knowingly and intentionally divest an asset, as described in subrule 10.17(1), while a member with the intention of reducing the member support.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

When it is discovered that a member or legal representative improperly divested an asset(s), that member ~~shall~~ may be charged member support as if the divestment did not occur.

ITEM 22. Amend subrule 10.35(7) as follows:

10.35(7) ~~Upon the death of a member with personal funds deposited with IVH, IVH will first take payment for the final support bill, and upon receipt of documentation of an outstanding balance, IVH will promptly convey the member's funds to the funeral home or to the individual paying the last funeral expenses. If no bill is presented for funeral expenses, IVH will collect any balance owing for the resident's final support bill, which may include debts owed to the IVH arts and crafts and ceramics program. If funds remain, IVH, upon receipt of documentation of the outstanding balance, will convey promptly the member's funds to the funeral home or to the individual paying last funeral expenses. IVH will notify promptly the estate recovery program of the death of any IVH resident who has been on Title XIX. Upon IVH's receipt of notification from the estate recovery program, any funds remaining in the deceased resident's membership account will be disbursed according to the deceased resident's directions. If probate papers are produced, a final accounting of those funds must also be provided to the individual administering the member's estate along with a disbursement of any remaining funds. If the value of the member's estate is so small as to make the granting of administration inadvisable, IVH must hold, then deliver all money plus interest within one year to the proper heirs equally or adhere to the member's request in the member's last will and testament.~~

ITEM 23. Amend subrule 10.35(8) as follows:

10.35(8) ~~A member discharged while on leave from IVH shall have the member's account closed before the first~~ by the tenth day of the month following discharge.

ITEM 24. Amend paragraph **10.36(1)"d"** as follows:

d. Hospital leaves. Leaves spent in approved medical facilities away from IVH shall not be counted against the 59-day leave time limit as set out in paragraph 10.14(3)"b."

Hospital leaves shall be granted and the charges for such leaves shall be as follows: During the first ten consecutive days of any hospital stay, the member shall pay the regular and usual assessed charge for the member's level of care. ~~Beginning on the eleventh day through the remainder of the hospitalization~~ After the tenth day, if a mutual agreement is made between the resident or legal representative and the commandant or designee for the member's bed to be held for additional days, the member shall not be charged. Each monthly member support bill shall reflect any adjustments related to hospitalization.

Leaves to other medical facilities for the purpose of treatment shall be treated as hospital leaves.

ITEM 25. Amend paragraph **10.36(2)"e"** as follows:

e. ~~A bed shall be held for a hospitalized member for up to ten consecutive days. After ten days, IVH assumes the authority to discharge the resident, but reserves the right to negotiate an extension to the bed hold, if warranted, in the best interest of the resident and the facility, at the discretion of the commandant or designee. The member's client participation shall be paid according to the department of human services' income maintenance worker for all hospitalized days until member returns or is discharged.~~

ITEM 26. Amend paragraph **10.36(3)"b"** as follows:

b. ~~Upon return from a pass, the member must remain in residence past midnight of the day of return before another pass is issued~~ 24 hours before another pass can be issued.

ITEM 27. Amend paragraph **10.37(2)"b"** as follows:

b. Designate that the member shall receive personal mail items, but business mail received at IVH from entitlement sources or concerning assets shall be routed to the resident finance office, cashier's office or Medicare purchasing office, whichever is appropriate.

ITEM 28. Amend subrule 10.40(3) as follows:

10.40(3) The steps described in subrule 10.40(2) shall generally be followed in that order. However, if the member's violation is of an extreme nature and the member is not amenable to counseling, the commandant or designee shall choose to discharge the member after the expiration of a 30-day

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

written notification period which begins when the notice is personally delivered. If the ~~IRCC~~ RCC, in conjunction with the medical provider and mental health personnel, deems that the member's behavior poses a threat of imminent danger, the commandant or designee may issue notice of an immediate involuntary discharge. In such an emergency situation, a written notice shall be given prior to or within 48 hours following the discharge.

The member's county commission of veterans affairs and the legal representative shall be informed in writing of the decision to discharge. Written notification shall also be issued to appropriate governmental agencies including the commission, the department of inspections and appeals, and the department on aging's long-term care ombudsman to ensure that the member's health, safety or welfare shall not be in danger upon the member's release.

ITEM 29. Amend subrule 10.43(1) as follows:

10.43(1) The commandant or designee shall, with the input and recommendation of the ~~IRCC~~ RCC, involuntarily discharge a member for any of the following reasons:

a. The member has been diagnosed with a substance use disorder but continues to abuse alcohol or an illegal drug in violation of the member's conditional or provisional agreement entered into at the time of admission or at any time thereafter, and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(2) The member has been notified of the member's commission of three offenses and has been given the opportunity to correct the behavior through either of the following options:

1. Being given the opportunity to receive the appropriate level of treatment in accordance with best practices for standards of care.

2. By having been placed on probation by IVH for a second offense.

Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1) "*a*," if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the ~~IRCC~~ RCC and the commandant or designee may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged under paragraph 10.43(1) "*a*" if the member's actions or behavior jeopardizes the life or safety of other members or staff.

b. The member refuses to utilize the resources available to address issues identified in the member's collaborative care plan, and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(2) The member has been notified of the member's commission of three offenses and the member has been placed on probation by IVH for a second offense.

Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1) "*b*," if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the ~~IRCC~~ RCC and the commandant or designee may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged if the member's actions or behavior jeopardizes the life or safety of other members or staff.

c. The member no longer meets the requirements for residential or nursing level of care, as determined by the ~~IRCC~~ RCC or medical provider.

d. The member requires a level of licensed care not provided at IVH.

ARC 5669C**VETERINARY MEDICINE BOARD[811]****Notice of Intended Action****Proposing rule making related to ethics
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to amend Chapter 10, “Discipline,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 169.

Purpose and Summary

This proposed rule making establishes Iowa’s principles of veterinary medical ethics which licensed veterinarians must abide by. These ethics rules are based on the American Veterinary Medical Association’s Principles of Veterinary Medical Ethics, which the Board currently utilizes. Licensed veterinarians who violate the ethics rules may be subject to discipline by the Board.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

Public Comment

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

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7808
Email: colin.tadlock@iowaagriculture.gov

Public Hearing

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

VETERINARY MEDICINE BOARD[811](cont'd)

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 811—10.6(17A,169,272C), introductory paragraph, as follows:

811—10.6(17A,169,272C) Grounds for discipline and principles of veterinary medical ethics. The board has established grounds for discipline and principles of ethics for veterinary medicine. Without regard as to whether the board has determined that an injury has occurred, the board may impose any of the disciplinary sanctions set forth in rule ~~10.7(17A,169,272C)~~ 811—10.7(17A,169,272C), including civil penalties in an amount not to exceed \$10,000, when the board determines that the credential holder is guilty of any of the following acts or offenses:

ITEM 2. Amend paragraph **10.6(2)“a”** as follows:

a. Engaging in unethical conduct which includes, but is not limited to, a violation of the standards of practice as set out in 811—Chapter 12, and which may include acts or offenses in violation of ~~the AVMA Principles of Veterinary Medical Ethics~~ Iowa's principles of veterinary medical ethics, as adopted in subrule 10.6(3).

ITEM 3. Adopt the following **new** subrule 10.6(3):

10.6(3) Principles of veterinary medical ethics. Veterinarians are members of a scholarly profession who have earned academic degrees from comprehensive universities or similar educational institutions. Licensed veterinarians practice veterinary medicine in a variety of situations and circumstances. Exemplary professional conduct upholds the dignity of the veterinary profession. All Iowa-licensed veterinarians are expected to adhere to these principles of veterinary medical ethics adopted by the board.

a. *General ethics principles.*

(1) A veterinarian shall be influenced only by the welfare of the patient, the needs of the client, the safety of the public, and the need to uphold the public trust vested in the veterinary profession, and shall avoid conflicts of interest or the appearance thereof.

(2) A veterinarian shall provide competent veterinary medical clinical care under the terms of a veterinarian-client-patient relationship (VCPR), with compassion and respect for animal welfare and human health.

(3) A veterinarian shall uphold the standards of professionalism, be honest in all professional interactions, and report veterinarians who are deficient in character or competence to the appropriate entities.

(4) A veterinarian shall respect the law and also recognize a responsibility to seek changes to laws and regulations which are contrary to the best interests of the patient and public health.

(5) A veterinarian shall respect the rights of clients, colleagues, and other health professionals and shall safeguard medical information within the confines of the law.

(6) A veterinarian shall continue to study, apply, and advance scientific knowledge; maintain a commitment to veterinary medical education; make relevant information available to clients, colleagues, and the public; and obtain consultation or referral when indicated.

(7) A veterinarian shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide veterinary medical care.

VETERINARY MEDICINE BOARD[811](cont'd)

(8) A veterinarian shall recognize a responsibility to participate in activities contributing to the improvement of the community and the betterment of public health.

(9) A veterinarian shall view, evaluate, and treat all persons in any professional activity or circumstance in which they may be involved solely as individuals on the basis of their own personal abilities, qualifications, and other relevant characteristics.

(10) A veterinarian shall not advertise a specialty or claim to be a specialist when not a diplomate of a veterinary specialty organization recognized by the AVMA.

b. Veterinarian-client-patient relationship ethics. A veterinarian shall not engage in the practice of veterinary medicine without a valid VCPR as defined in these rules.

c. Veterinarian-client communication; documentation of informed consent.

(1) A veterinarian shall explain to clients how any diagnostic tests offered would help diagnose a patient's medical condition.

(2) A veterinarian is responsible for professional communication directly with the client regarding diagnosis, options for treatment(s), expected cost of treatment(s), expected outcome of treatment(s), and the potential risks associated with each treatment regimen, as well as the client's ability to decline treatment(s). Client consent for the treatment(s) shall be documented in the patient's medical records. A veterinary assistant may communicate the information listed in this subparagraph to the client under the direct supervision of an Iowa-licensed veterinarian.

(3) If a veterinarian does not have the expertise or the necessary equipment and facilities to adequately diagnose or treat a patient, the veterinarian shall offer a referral to another veterinarian or referral center where the diagnosis or treatment can be performed.

d. Veterinary medical records.

(1) Complete, accurate and legible medical records that are considered to meet the prevailing standard of the practice of veterinary medicine are required by the board. Medical records are vitally important in any board review of a complaint against a licensee.

(2) Any controlled substances administered to a patient must be written into the patient's medical record and shall include the drug name, the date the drug was administered, the amount of drug administered, the frequency of drug administration, and the prescribing (and administering, if different) veterinarian's name, as required by rules 811—12.2(169) to 811—12.4(169). This requirement is in addition to regulations and requirements promulgated by the Iowa board of pharmacy, U.S. Drug Enforcement Administration, and any other applicable governmental agency. Violating or failing to comply with a state or federal law or regulation relating to the storing, labeling, prescribing, or dispensing of controlled substances shall be deemed unethical.

(3) Humane euthanasia of animals is an ethical veterinary procedure. A veterinarian can refuse to perform euthanasia.

e. Client and patient privacy rights.

(1) A veterinarian shall protect and respect the privacy rights of clients, colleagues, and other health professionals. A veterinarian shall not reveal confidential medical records or other medical information unless authorized to do so by law.

(2) It is unethical to place photographs or information regarding a patient on social media or other public platforms without the consent of the owner, unless the patient cannot be identified by its marking and unless all personally identifying information has been removed from the photograph. Use of photographs and information for didactic purposes are permitted with client consent or after removal of any information that would identify the client or patient.

f. Professional behavior.

(1) A veterinarian shall be honest in all professional interactions while respecting the rights of clients, colleagues, and other health professionals. A veterinarian must be honest and fair in relations with others, and a veterinarian shall not engage in fraud, misrepresentation, or deceit, including by material omission, in accordance with Iowa Code section 169.13(1) "a."

(2) A veterinarian must not defame or injure the professional standing or reputation of another veterinarian in a false or misleading manner. Any complaints about behavior of a veterinarian that may

VETERINARY MEDICINE BOARD[811](cont'd)

violate the principles of veterinary medical ethics should be addressed through the board in an appropriate and timely manner.

(3) It is unethical to place professional knowledge, credentials, or services at the disposal of any nonprofessional organization, group, or individual to promote or lend credibility to the illegal practice of veterinary medicine.

(4) It is unethical to knowingly aid anyone who is engaged in the unlicensed practice of veterinary medicine in accordance with Iowa Code section 169.13(1) "e."

(5) A veterinarian who is impaired due to substance abuse or mental health conditions as set forth in Iowa Code section 169.13(1) "h" must not act in the capacity of a veterinarian and shall quickly seek medical assistance from qualified organizations or individuals.

g. Community service.

(1) A veterinarian should recognize a responsibility to participate in activities contributing to the improvement of the community and the betterment of public health. The responsibilities of the veterinary profession extend beyond individual patients and clients to society in general.

(2) A veterinarian is encouraged to make the veterinarian's knowledge available to the community and to provide the veterinarian's services for activities that protect public health.

ARC 5656C

VETERINARY MEDICINE BOARD[811]

Notice of Intended Action

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

The Board of Veterinary Medicine hereby proposes to amend Chapter 14, "Waiver or Variance of Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

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

Purpose and Summary

This proposed rule making implements 2020 Iowa Acts, House File 2389, by removing references to "variances" within Chapter 14 and updates the process by which the Board publishes rule waivers.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

VETERINARY MEDICINE BOARD[811](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 22, 2021. Comments should be directed to:

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7808
Email: colin.tadlock@iowaagriculture.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **811—Chapter 14**, title, as follows:

WAIVER OR VARIANCE OF RULES

ITEM 2. Amend rule 811—14.1(17A,169) as follows:

811—14.1(17A,169) Definition. For purposes of this chapter, ~~“a waiver or variance”~~ “waiver” means action by the board which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

ITEM 3. Amend rule 811—14.4(17A,169), catchwords, as follows:

811—14.4(17A,169) Criteria for waiver or variance.

ITEM 4. Amend rule 811—14.12(17A,169) as follows:

811—14.12(17A,169) Summary reports **Submission of waiver information.** ~~Semiannually, the board shall prepare a summary report identifying~~ Within 60 days of granting or denying a waiver, the board shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board’s actions on waiver requests. In addition, the report shall identify the duration and the expiration date of any waiver granted. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. ~~Copies of this report shall be available~~

VETERINARY MEDICINE BOARD[811](cont'd)

~~for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

ARC 5658C

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Adopted and Filed Emergency

Rule making related to broadband service

The Office of the Chief Information Officer (Office) hereby amends Chapter 20, “Broadband Infrastructure—Targeted Service Areas,” and Chapter 22, “Broadband Grants Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 8B.4, 8B.10 and 8B.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 848.

Purpose and Summary

This rule making implements changes made to Iowa Code chapter 8B by 2021 Iowa Acts, House File 848, an Act relating to broadband service, including matters under the purview of the Office, the Empower Rural Iowa Broadband Grant Fund, and effective date and applicability provisions.

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

Pursuant to Iowa Code section 17A.4(3), the Office finds that notice and public participation are unnecessary or impractical because statute so provides. In compliance with 2021 Iowa Acts, House File 848, section 4, the Administrative Rules Review Committee reviewed this rule making at its May 7, 2021, meeting.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Office also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on May 7, 2021, because 2021 Iowa Acts, House File 848, section 4, authorizes waiver of the normal effective date.

Adoption of Rule Making

This rule making was adopted by the Chief Information Officer on May 7, 2021.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 5657C** to allow for public comment.

Fiscal Impact

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

Jobs Impact

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

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Office for a waiver of the discretionary provisions, if any, pursuant to 129—Chapter 7.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making became effective on May 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 129—20.1(8B,427) as follows:

129—20.1(8B,427) Definitions. The definitions in Iowa Code section 8B.1 ~~as amended by 2020 Iowa Acts, Senate File 2400,~~ shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply.

“*As of date*” means the as of date of the broadband availability maps and corresponding data sources utilized by the office in determining whether a communications service provider facilitates broadband service in a particular broadband block at or above the download and upload speeds specified in the definition of targeted service area and underlying the statewide map published and then in effect in accordance with rules 129—20.3(8B,427) and 129—20.4(8B,427).

“*Broadband block*” means:

1. Until the Federal Communications Commission (FCC) adopts and publishes a publicly available data set identifying a different or more granular unit of measurement(s) by appropriate regulation or order (such as location-specific, address-specific, or polygon-based), a census block.

2. If the FCC adopts and publishes a publicly available data set identifying a different or more granular unit of measurement(s) by appropriate regulation or order (such as location-specific, address-specific, or polygon-based), for purposes of the next iteration of the statewide map published in accordance with rule 129—20.4(8B,427) following the FCC's adoption of such unit of measurement(s), such unit of measurement(s) as adopted by the FCC and which is located in this state.

“*Broadband unit*” or “*broadband units*” means a home, farm, school, or business within a broadband block as of the as of date. The number of broadband units within a broadband block shall be as represented on the statewide map published in accordance with rule 129—20.4(8B,427).

“*Census block*” means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block.

“*Chief information officer*” or “*CIO*” means the state chief information officer or the state chief information officer's designee.

“*Installation of the broadband infrastructure*” means the labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services. “Installation of the broadband infrastructure” does not include the process of removing existing infrastructure, fixtures, or other real property in preparation of installation of the broadband infrastructure.

“*Materially underserved*” means a broadband block within which less than 10 percent of the geographic area comprising the broadband block is facilitated with broadband service ~~at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended~~ exceeding tier 1 upload and download speeds.

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

“Meaningfully available” means broadband service that is facilitated to consumers on a commercially reasonable basis and without significant interruption or delay. In determining whether broadband service is meaningfully available on a commercially reasonable basis, the office may consider product or delivery attributes or characteristics such as availability in terms of average uptime and downtime or latency or delays in the transmission of data.

“Targeted service area” means a broadband block:

1. ~~Within which no communications service provider facilitates broadband service at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended; or~~

2. ~~That is materially underserved or without meaningfully available broadband service by one or more communications service providers at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended, as of the as of date.~~

“Tier 1 targeted service area” or *“tier 1 TSA”* means a targeted service area within which broadband speeds do not exceed tier 1 speed levels.

“Tier 2 targeted service area” or *“tier 2 TSA”* means a targeted service area within which broadband speeds do not exceed tier 2 speed levels, but are greater than tier 1 speed levels.

“Tier 3 targeted service area” or *“tier 3 TSA”* means a targeted service area within which broadband speeds do not exceed tier 3 speed levels, but are greater than tier 2 speed levels.

ITEM 2. Amend rule 129—20.2(8B,427) as follows:

129—20.2(8B,427) Scope. This chapter interprets relevant provisions of Iowa Code sections 8B.1, 8B.10, and 8B.11 ~~as amended by 2020 Iowa Acts, Senate File 2400~~; implements Iowa Code section 427.1(40) ~~as amended by 2020 Iowa Acts, Senate File 2400~~; and applies to the office’s determinations of whether a broadband block is a targeted service area and to persons who wish to challenge the office’s finding on whether a broadband block is a targeted service area. References to Iowa Code chapter 8B or its subparts refer to Iowa Code chapter 8B as amended by 2021 Iowa Acts, House File 848, and as will be codified in the 2022 Iowa Code.

ITEM 3. Amend rule 129—20.3(8B,427) as follows:

129—20.3(8B,427) Broadband availability maps and data sources.

20.3(1) To determine whether a communications service provider facilitates broadband service in a particular broadband block at or above the tier 1, tier 2, or tier 3 download and upload speeds specified in the definition of targeted service area as of the as of date, the office may utilize the following data sources:

a. Fixed broadband availability maps and corresponding data sources made available by the FCC online, ~~which as of October 14, 2020, was available at www.fcc.gov/general/broadband-deployment-data-fcc-form-477.~~

b. and c. No change.

d. Other data sources made available by or through federal or state agencies, directly or indirectly.

20.3(2) In accordance with Iowa Code section 8B.10(3) ~~as enacted by 2020 Iowa Acts, Senate File 2400~~, all data sources relied on by the office in making the determination(s) contemplated by this rule and rule 129—20.4(8B,427) shall exclude mobile wireless or satellite data, capabilities, and delivery mediums.

ITEM 4. Amend rule 129—20.4(8B,427) as follows:

129—20.4(8B,427) Targeted service area determination.

20.4(1) The office will create a statewide map divided into broadband blocks. Based on the maps and data sources referenced in rule 129—20.3(8B,427), the statewide map will designate broadband blocks that qualify as tier 1, tier 2, or tier 3 targeted service areas as of the as of date. ~~This statewide map~~

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

~~shall be published~~ The office will publicize the statewide map, which may include publishing online at ocio.iowa.gov/broadband.

20.4(2) In accordance with Iowa Code section 8B.10(1) ~~as amended by 2020 Iowa Acts, Senate File 2400~~, the office shall periodically make renewed determinations of whether a communications service provider facilitates broadband service at or above the tier 1, tier 2, or tier 3 download or upload speeds specified in the definition of targeted service area by publishing an updated version of the statewide map. Such updates shall be made, to the extent updated maps and data sources are available at the time, no less frequently than prior to each round of grant applications solicited by the office pursuant to Iowa Code section 8B.11 ~~as amended by 2020 Iowa Acts, Senate File 2400~~. The office is not required to make renewed determinations of whether a communication service provider offers or facilitates broadband service at or above the tier 1, tier 2, or tier 3 download and upload speeds specified in the definition of targeted service area more frequently than once per year.

20.4(3) As of the date of the office's publication of each version of the statewide map online at ocio.iowa.gov/broadband, targeted service area designations as shown on the statewide map shall be considered the office's final determination and finding of whether a particular broadband block constitutes a targeted service area, unless a person or party successfully challenges the office's determination pursuant to the appeals and contested case process outlined in this chapter, in which case the office will update the statewide map to reflect the outcome of such challenge(s). For the sake of clarity, failure to challenge the office's determination and finding of whether a particular broadband block constitutes a tier 1, tier 2, or tier 3 targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall render the office's determination and finding with respect to that particular broadband block final and no longer subject to challenge. A party's failure to challenge the office's determination and finding of whether a particular broadband block constitutes a targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall be deemed a failure to exhaust administrative remedies.

20.4(4) The office will designate all projects as addressing difficult to serve targeted service areas based on the office's determination, made in its sole discretion, of whether a proposal will result in the installation of broadband infrastructure in areas meeting the conditions set forth in Iowa Code section 8B.11(7). For the sake of clarity, the office will identify all tier 1 TSAs as difficult to serve targeted service areas.

ITEM 5. Amend rule 129—20.5(8B,427) as follows:

129—20.5(8B,427) Appeals.

20.5(1) Notice of appeal. Within 20 days after the office makes its final determination of whether a particular broadband block constitutes a tier 1, tier 2, or tier 3 targeted service area pursuant to rule 129—20.4(8B,427), any person or party aggrieved or adversely affected by such determination may challenge the office's finding by filing a notice of appeal with the office.

a. and b. No change.

20.5(2) Filing. Except to the extent that electronic filing is not feasible, a notice of appeal and all corresponding evidence and information shall be filed by email at eio@iowa.gov ociogrants@iowa.gov. To the extent electronic filing is not feasible, the notice of appeal and all corresponding evidence and information shall be mailed to: Office of the Chief Information Officer, ~~Hoover State Office Building, Level B, 1305 East Walnut Street, Des Moines, Iowa 50319~~ 200 East Grand Avenue, Des Moines, Iowa 50309. If the notice of appeal and corresponding evidence and information are filed by mail, such filing shall be accompanied by a written explanation of why electronic filing was not feasible.

20.5(3) Notification of and input from affected persons or parties. Within ten calendar days of receipt of a notice of appeal, the office shall provide notification to any affected persons or parties by posting the notice of appeal at ocio.iowa.gov/broadband. From the date of such posting, any affected persons or parties will have 20 calendar days to submit evidence and information in support of, or in opposition to, such appeal. Except to the extent not feasible, any such evidence and information shall be submitted by email to eio@iowa.gov ociogrants@iowa.gov. To the extent electronic submission is not feasible, such evidence and information shall be mailed to: Office of the Chief Information Officer, ~~Hoover State~~

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~~Office Building, Level B, 1305 East Walnut Street, Des Moines, Iowa 50319~~ 200 East Grand Avenue, Des Moines, Iowa 50309. If such evidence or information is submitted by mail, the evidence or information shall be accompanied by a written explanation of why electronic submission was not feasible.

20.5(4) to 20.5(7) No change.

20.5(8) *Probative evidence and information.* Examples of evidence and information the office would consider particularly probative of broadband service at or above the tier 1, tier 2, or tier 3 download and upload speeds specified in the definition of targeted service area as of the as of date for purposes of adjudicating an appeal of the office's determination of whether a particular broadband block constitutes a ~~targeted service area~~ tier 1, tier 2, or tier 3 TSA include:

a. Signed attestations submitted to the office under penalty of perjury on forms provided by the office that the applicable broadband block(s) was or was not served as of the as of date with broadband service at or above the tier 1, tier 2, or tier 3 download and upload speeds specified in the definition of targeted service area.

b. No change.

ITEM 6. Amend rule 129—22.1(8B) as follows:

129—22.1(8B) Definitions. The definitions in Iowa Code section 8B.1 ~~as amended by 2020 Iowa Acts, Senate File 2400,~~ and rule 129—20.1(8B,427) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply:

“*Grantee*” means a communications service provider awarded grant funds by the office pursuant to and in accordance with Iowa Code section 8B.11 and these rules.

“*Project*” means an installation of broadband infrastructure by a communications service provider that facilitates broadband service at or above the download and upload speeds specified in Iowa Code section ~~8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400~~ 8B.11(1)“a” or “b” or 8B.11(6), whichever is applicable, in one or more targeted service areas.

ITEM 7. Amend rule 129—22.2(8B) as follows:

129—22.2(8B) Purpose and scope. This chapter applies to the broadband grants program established by Iowa Code section 8B.11 and administered by the office. ~~As authorized by Iowa Code section 8B.11(8), this~~ This chapter interprets relevant provisions of Iowa Code sections 8B.1 and 8B.11 ~~as amended by 2020 Iowa Acts, Senate File 2400,~~ and establishes program process, management, and measurement rules designed to ensure the effective and efficient administration and oversight of the program, the key objective of which is to reduce or eliminate unserved and underserved areas in the state, leveraging federal funds and public and private partnerships where possible, by awarding grants to communications service providers that reduce or eliminate targeted service areas by installing broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in Iowa Code section ~~8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400,~~ whichever is applicable, and in accordance with Iowa Code section 8B.11 and this chapter. References to Iowa Code chapter 8B or its subparts refer to Iowa Code chapter 8B as amended by 2021 Iowa Acts, House File 848, and as will be codified in the 2022 Iowa Code.

ITEM 8. Amend rule 129—22.4(8B) as follows:

129—22.4(8B) Applications for grant funds.

22.4(1) *Application process.* Following the issuance of a NOFA by the office, communications service providers may apply to the office for grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in Iowa Code section ~~8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400,~~ whichever is applicable 8B.11. Applications shall be made and submitted in accordance with the terms of these rules and the NOFA.

22.4(2) *Contents of application.* In addition to any other questions or requirements established by the NOFA, an application shall, at a minimum, include:

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- a. The communications service provider's legal and business name(s) and address(es);
- b. The name, address, telephone number, and email address of the person authorized by the communications service provider to respond to inquiries regarding the application;
- c. The broadband block number(s) as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application/project (i.e., the targeted service area(s) in which the proposed installation of broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable) 8B.11;
- d. Attestation that the broadband infrastructure installed will facilitate broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable 8B.11;
- e. Unless a specific cost allocation methodology is identified or required by the office as set forth in the NOFA, the specific methods or formulas the communications service provider will utilize in allocating the costs of and for broadband infrastructure for which reimbursement may be sought in proportion to such infrastructure's actual facilitation of broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, 8B.11 in the targeted service areas forming the basis of the project;
- f. An anticipated project completion date, ~~which shall not exceed five years from the date the NOFA is issued.~~ in accordance with paragraph 22.6(3) “b.” An applicant's anticipated project completion date ~~shall~~ may be used to determine whether a grantee's failure to complete a project in a timely manner warrants a finding of noncompliance for purposes of subparagraph 22.6(4) “b”(2).

22.4(3) to 22.4(5) No change.

ITEM 9. Rescind and reserve subrule **22.5(1)**.

ITEM 10. Rescind and reserve subrule **22.5(2)**.

ITEM 11. Amend subrule 22.5(3) as follows:

22.5(3) Office final decision. ~~Following the office's receipt of the review committee's input or recommendations and the closure of the period for public comment, the~~ The office will review all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B; ~~the input/recommendations made by the review committee; and any public comment received, all in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B,~~ and make a final agency decision regarding whether, to which projects, and in what amount(s) to award grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in Iowa Code section 8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable 8B.11.

a. In so doing, the office will take into consideration the following factors, in accordance with and in the manner specified by the terms, conditions, and requirements of the NOFA, affording the greatest weight to the factors in subparagraphs 22.5(3) “a”(1), 22.5(3) “a”(2), and 22.5(3) “a”(3), and Iowa Code section 8B.11(4)“a”(6):

(1) The relative need for broadband infrastructure in the area and the existing broadband service speeds, including whether the project serves a rural area(s). Existing broadband service speeds may be determined by reference to the statewide map referenced in rule 129—20.4(8B,427), ~~although the office may also take into consideration factual information received through the validation process pursuant to and in accordance with Iowa Code section 8B.11(3) as amended by 2019 Iowa Acts, House File 772, and paragraph 22.5(1)“b.”.~~

(2) The applicant's total proposed budget for the project, including all of the following:

1. The amount or percentage of local or federal matching funds, if any, and any funding obligations shared between public and private entities.

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2. The percentage of funding provided directly from the applicant, including whether the applicant requested from the office an amount less than the maximum amount the office could award pursuant to Iowa Code section 8B.11(5) as amended by 2020 Iowa Acts, Senate File 2400, 8B.11 and, if so, the percentage of the project cost that the applicant is requesting.

(3) The relative download and upload speeds of proposed projects for all the applicants.

(4) The specific product attributes resulting from the proposed project, including technologies that provide higher qualities of service, such as service levels, latency, and other service attributes as determined by the office.

(5) The percentage of broadband units in the targeted service area(s) forming the basis of the project that will be provided access to broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, 8B.11 as a result of the project. The number of broadband units in a targeted service area shall be determined by reference to the statewide map referenced in rule 129—20.4(8B,427). Considering this factor is the means by which the office ensures underserved areas within targeted service areas are, to the extent possible, reduced or eliminated.

(6) The geographic diversity of the project areas of all applicants. The proportion of proposed projects that will result in the installation of broadband infrastructure in a targeted service area within which the only broadband service available provides the tier 1 download and upload speeds specified in the definition of targeted service area.

~~(7) The economic impact of the project to the area.~~

~~(8) (7) Any other factors deemed relevant by the office as stated in the NOFA.~~

b. In determining whether, to which projects, and in what amount(s) to award grant funds, the office will not do any of the following: make an award that exceeds the following percentages identified in Iowa Code section 8B.11(5) "a," "b," or "c" or 8B.11(6) "b," whichever is applicable, of any communications service provider's total estimated allowable project costs for a proposed installation of broadband infrastructure; or meeting the buildout speeds referenced in Iowa Code section 8B.11(1) or 8B.11(6), whichever is applicable.

~~(1) Base its decision on the office's prior knowledge of any applicant except for information obtained by the office during the application process or period for public comment;~~

~~(2) Make an award that exceeds 35 percent of any communications service provider's total estimated allowable project costs for a proposed installation of broadband infrastructure; or~~

~~(3) Award grant funds in a manner that violates or is otherwise inconsistent with the limitations or requirements of Iowa Code section 8B.11(5) as amended by 2020 Iowa Acts, Senate File 2400.~~

c. In determining whether a project serves difficult to serve areas and thus qualifies for the 20 percent allocation identified in Iowa Code section 8B.11(7), the office will solely consider whether the project serves one or more targeted service areas within which no provider offers or facilitates broadband service that provides download and upload speeds less than or equal to the tier 1 download and upload speeds specified in Iowa Code section 8B.1(13) "a"(1). In such cases, any funds awarded to the project will be assigned to the 20 percent allocation made by the office. In the event that the 20 percent allocation in Iowa Code section 8B.11(7) is not fully subscribed, the office will be permitted to reallocate any unspent funds to projects that do not serve difficult to serve areas.

ITEM 12. Amend subrule 22.6(2) as follows:

22.6(2) Mapping data required. Upon project completion, a grantee must supply the office with geographic information system (GIS) data in a form mutually acceptable to both the office and grantee demonstrating specifically where broadband infrastructure for which grant funds have been utilized, in whole or in part, has been installed, regardless of whether such infrastructure actually serves any customers in targeted service area(s) forming a basis of the application at the time such mapping data is supplied to the office. Such GIS data must enable the office to determine which specific broadband units within each targeted service area forming the basis of the project have access to broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, 8B.11 as a result of the project.

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ITEM 13. Amend subparagraph **22.6(3)“a”(1)** as follows:

(1) General. A grantee shall only be reimbursed by the office for:

1. No change.
2. Expenditures for broadband infrastructure solely to the extent such broadband infrastructure facilitates broadband service at or above the download and upload speeds specified in Iowa Code section ~~8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable,~~ 8B.11 within targeted service areas forming the basis of the project; and
3. No change.

ITEM 14. Amend paragraph **22.6(3)“b”** as follows:

b. Performance/certification. After the completion of a project ~~utilizing, in whole or in part, grant funds~~ and not less than 60 days prior to four years from the date of issuance of the NOFA, or 60 days prior to four years from the appropriation of grant funds, whichever is earlier, a grantee must:

(1) Certify to the office that the project was completed as proposed in the original application, including but not limited to that the final installation facilitates broadband service at or above the download and upload speeds specified in Iowa Code section ~~8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable,~~ 8B.11 in each of the applicable targeted service areas identified in the original application, and identify the total number of broadband units actually receiving broadband service in each of the targeted service areas identified in the original application as a result of the project.

(2) Attest that any claimed, allowable expenditures are true and accurate, were directly related to the installation of broadband infrastructure that facilitates broadband service at or above the download and upload speeds specified in Iowa Code section ~~8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable,~~ 8B.11 in eligible targeted service areas forming the basis of the project, and were properly allocated in accordance with the terms, conditions, and requirements of the NOFA or grant agreement.

(3) No change.

ITEM 15. Amend paragraph **22.6(3)“c”** as follows:

c. Field Performance testing. The office may, in its discretion, conduct field performance tests, on one or multiple occasions, for compliance with the requirements of Iowa Code sections 8B.1 and 8B.11, these rules, and any grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1) for up to five years after broadband service is certified as complete in accordance with paragraph 22.6(3)“b.” The office may exercise this right both before and after reimbursing a grantee for any claimed, allowable expenditures, but if the office elects to do so before reimbursing a grantee for any claimed, allowable expenditures, it will do so within a reasonable time, not to exceed one year, after broadband service is certified as complete in accordance with paragraph 22.6(3)“b.” Such field performance tests may include but not be limited to:

(1) and (2) No change.

(3) In the case where a grantee does not have a customer in a targeted service area being served by the installation, certification obtained by the grantee and supplied to the office from an independent third party who is a properly licensed engineer that the installation facilitates broadband service at or above the download and upload speeds specified in Iowa Code sections ~~8B.11(5)“a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable,~~ section 8B.11 in applicable targeted service areas identified in the original application. The costs of such certification shall be borne by the grantee.

ITEM 16. Amend numbered paragraph **22.6(3)“d”(1).2** as follows:

2. Claimed expenditures or the total amount previously reimbursed by the office exceeds ~~35 percent~~ the amount determined by Iowa Code section 8B.11(5) or 8B.11(6) of the grantee’s estimated or final total allowable project costs, whichever is less.

ITEM 17. Amend numbered paragraph **22.6(3)“d”(2).1** as follows:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that was not in or does not facilitate broadband service at or above the

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download and upload speeds specified in Iowa Code section ~~8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable,~~ 8B.11 in a targeted service area identified in the original application;

ITEM 18. Amend subparagraph **22.6(4)“b”(3)** as follows:

(3) A grantee’s failure to comply with any applicable state or federal laws, rules, or regulations;

ITEM 19. Amend subparagraph **22.6(4)“b”(5)** as follows:

(5) Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that does not facilitate broadband service at or above the download and upload speeds specified in Iowa Code section ~~8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable,~~ 8B.11 in a targeted service area identified in the original application;

ITEM 20. Amend subparagraph **22.6(4)“b”(7)** as follows:

(7) The total claimed ~~expenditures or the amount previously reimbursed by the office exceeds 35 percent of the grantee’s estimated or final total allowable project costs, whichever is less~~ exceeds amounts allowed by the grant agreement or statute;

ITEM 21. Amend rule 129—22.7(8B) as follows:

129—22.7(8B) Reallocation of grant funds. Subject to applicable law, including but not limited to Iowa Code section 8B.11(2) “c,” if grant funds that the office had previously committed to specific grantees are not ultimately issued to a grantee (e.g., because applicable expenditures are not allowed or are disallowed, applicable expenditures were improperly or incorrectly allocated, or a grantee fails to provide sufficient or appropriate documentation to support a claim for reimbursement) or are otherwise repaid to the office pursuant to a grant agreement entered into between the office and a grantee or these rules, the office may award the grant funds to other previous grantees or applicants or open additional rounds for applications. If the office awards additional grant funds to other grantees or applicants, such grantees shall submit documentation establishing how such grant funds will be expended and may, to the extent applicable, be required to execute contract amendments with the office providing for the expenditure of the additional grant funds and will otherwise be subject to Iowa Code section 8B.11 and these rules.

[Filed Emergency 5/7/21, effective 5/7/21]

[Published 6/2/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5644C

ECONOMIC DEVELOPMENT AUTHORITY[261]**Adopted and Filed****Rule making related to waivers of enhance Iowa board rules**

The Economic Development Authority hereby amends Chapter 213, “Enhance Iowa Board: Uniform Waiver and Variance Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15F.104.

State or Federal Law Implemented

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

Purpose and Summary

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

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 24, 2021, as **ARC 5537C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on May 6, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 213.

Review by Administrative Rules Review Committee

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **261—Chapter 213**, title, as follows:

ENHANCE IOWA BOARD: UNIFORM WAIVER
~~AND VARIANCE RULES~~

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

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

213.1(1) Definitions.

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

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

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

213.1(2) Authority.

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

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

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

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

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

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

b. Waiver ~~or variance~~ on the basis of the particular circumstances relative to that specified person would be consistent with the public interest; and

c. Waiver ~~or variance~~ in the specific case would not prejudice the substantial legal rights of any person; and

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

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

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

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

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

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

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

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

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

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

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

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

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

213.5(1) Additional information. Prior to issuing an order granting or denying a waiver or variance, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's designee, a committee of the board, or a quorum of the board.

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

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

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

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

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

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

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

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

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

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

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

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

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

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

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

261—213.10(17A,ExecOrd11 15F) Appeals. Granting or denying a request for waiver or variance is final agency action under Iowa Code chapter 17A. An appeal to district court shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

Exhibit A

Sample Petition (Request) for Waiver/Variance

BEFORE THE ENHANCE IOWA BOARD

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



PETITION FOR
WAIVER

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

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

j. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver ~~or variance~~.

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

 Petitioner's signature

 Date

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

1. The petitioner has the burden of proving to the board, by clear and convincing evidence, the following: (a) application of the rule to the petitioner would result in undue hardship or injustice to the petitioner; and (b) waiver ~~or variance~~ on the basis of the particular circumstances relative to the petitioner would be consistent with the public interest; and (c) waiver ~~or variance~~ in the specific case would not prejudice the substantial legal rights of any person; and (d) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.

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

3. All petitions for waiver ~~or variance~~ must be submitted in writing to the Enhance Iowa Board, ~~200 East Grand~~ 1963 Bell Avenue, Suite 200, Des Moines, Iowa ~~50309-1819~~ 50315, Attention: Legal Counsel. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

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

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

[Filed 5/6/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5645C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to the organizational structure of the department of education

The State Board of Education hereby amends Chapter 1, "Organization and Operation," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.9.

Purpose and Summary

This rule making updates the organizational structure of the Department of Education.

EDUCATION DEPARTMENT[281](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 24, 2021, as **ARC 5479C**. A public hearing was held on March 16, 2021, at 9:30 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on May 6, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making action is adopted:

Amend subrule 1.4(1) as follows:

1.4(1) Organization.

a. Office of the director. The director is the chief administrator of the department and serves as chief executive officer of the state board of education. Within the office of the director, there are two offices, each headed by a deputy director: the office of learning, results, and programs, and the office of operations and initiatives.

~~*b. Division of community colleges and workforce preparation.* The division oversees career and technical education as well as the community colleges.~~

~~*c. Division of financial and information services.* The division provides internal operations and information technology to the agency as well as planning, research and evaluation services.~~

~~*d. Division of early childhood, elementary and secondary education.* The division consists of bureaus that oversee instructional services, practitioner preparation, administration and school improvement services, and food and nutrition services.~~

b. Division of learning, results, and programs. The division consists of bureaus that oversee instructional services; practitioner preparation; administration and school improvement services; food and nutrition services; and planning, research, and evaluation services. The division is within the office of learning, results, and programs.

EDUCATION DEPARTMENT[281](cont'd)

c. Division of community colleges and workforce preparation. The division oversees career and technical education as well as the community colleges. The division is within the office of operations and initiatives.

d. Division of finance and support services. The division provides accounting and internal operations and information technology to the agency, and it also oversees school business operations. The division is within the office of operations and initiatives. The division administrator is the department's chief financial officer.

e. to g. No change.

[Filed 5/6/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5646C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to agency procedure and petitions for rule making

The State Board of Education hereby amends Chapter 2, "Agency Procedure for Rule Making and Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

This rule making modernizes the Department's procedures for rule making in light of the revisions to the Iowa Administrative Procedure Act made by 2020 Iowa Acts, House File 2389.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 24, 2021, as **ARC 5466C**. A public hearing was held on March 16, 2021, at 9:30 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on May 6, 2021.

Fiscal Impact

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

Jobs Impact

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

EDUCATION DEPARTMENT[281](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 2.7(3):

2.7(3) Jobs impact statement. The agency shall prepare a jobs impact statement for each proposed rule, as required by Iowa Code section 17A.4B, unless waived by the administrative rules coordinator. The analysis in the jobs impact statement shall give particular weight to jobs in production sectors of the economy, which includes the manufacturing and agricultural sectors of the economy, and shall include analysis, where applicable, of the impact of the rule on expansion of existing businesses or facilities.

If a jobs impact statement is revised after a notice of intended action or a rule filed without notice pursuant to Iowa Code section 17A.4(3) is published, the revised jobs impact statement shall be published as part of the preamble to the adopted version of the rule, unless the administrative rules coordinator determines that publication of the entire jobs impact statement would be unnecessary or impractical.

ITEM 2. Amend subrule 2.12(2) as follows:

2.12(2) Incorporation by reference. The agency may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the agency finds that the incorporation of its text in the agency proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the agency proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; shall briefly indicate the precise subject and the general contents of the incorporated matter; and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The agency may incorporate such matter by reference in a proposed or adopted rule only if the agency makes copies of it readily available to the public. The rule shall state how and where copies of the incorporated matter may be obtained at cost from this agency, and how and where copies may be obtained from the agency of the United States, this state, another state, or the organization, association, or persons, originally issuing that matter. The agency shall retain permanently a copy of any materials incorporated by reference in a rule of the agency.

If the agency adopts standards by reference to another publication, it shall provide a copy of the publication containing the standards to the administrative rules coordinator for deposit in the state law library and may make the standards available electronically. The agency may establish alternative procedures providing for public access to an electronic or printed copy of a publication containing standards adopted by reference if the publication is proprietary or contains proprietary information.

ITEM 3. Adopt the following **new** subrule 2.17(3):

2.17(3) Beginning July 1, 2012, over each five-year period of time, the agency shall conduct an ongoing and comprehensive review of all of the agency's rules. The goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible

EDUCATION DEPARTMENT[281](cont'd)

with statute or its own rules or those of other agencies. The agency shall commence its review by developing a plan of review in consultation with major stakeholders and constituent groups. When the agency completes the five-year review of the agency’s own rules, the agency shall provide a summary of the results to the administrative rules coordinator and the administrative rules review committee.

ITEM 4. Amend rule 281—2.18(17A) as follows:

281—2.18(17A) Petition for rule making. A petition requesting the adoption, amendment, or repeal of a rule shall be filed with the department of education at the Grimes State Office Building, Second Floor, Des Moines, Iowa 50319-0146. A petition is deemed filed when it is received by that office. The department of education shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose.

2.18(1) Form. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF EDUCATION	
Petition by (Name of Petitioner) for the Adoption/Amendment/Repeal of (Cite rule involved).	} PETITION FOR RULE MAKING

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the petition is based.
2. The precise citation to the present rule if the petition is for the amendment or repeal of the same.
3. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, and any other relevant law.
4. A summary of the reasons for requesting the adoption, amendment or repeal of a rule.
5. Full disclosure of the petitioner’s interest in the outcome of the petition.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the issue(s) raised by the petition and whether, to the petitioner’s knowledge, those issues have been decided by, are pending determination by, or are under investigation by, any other governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the issue(s) presented in the petition.

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

2.18(2) Response to petition. Within 60 days after submission of a petition, the agency either shall deny the petition in writing on the merits, stating its reasons for the denial, or initiate rule-making proceedings in accordance with this chapter, or adopt a rule if it is not required to be filed according to the procedures of this chapter and Iowa Code section 17A.4(1). The agency shall submit the petition and the disposition of the petition to the administrative rules review committee.

ITEM 5. Renumber rule **281—2.19(17A)** as **281—2.20(17A)**.

ITEM 6. Adopt the following **new** rule 281—2.19(17A):

281—2.19(17A) Rule-making Internet site. Subject to the direction of the administrative rules coordinator, the agency shall make available to the public a uniform, searchable, and user-friendly rules database, published on an Internet site. An agency’s rule-making Internet site shall also make available to the public all of the following:

2.19(1) A brief summary of the rule-making process, including a description of any opportunity for public participation in the process.

2.19(2) Process forms for filing comments or complaints concerning proposed or adopted rules.

EDUCATION DEPARTMENT[281](cont'd)

2.19(3) Process forms and instructions for filing a petition for rule making pursuant to rule 281—2.18(17A), a petition for a declaratory order pursuant to 281—Chapter 3, or a petition for a waiver of an administrative rule pursuant to 281—Chapter 4.

2.19(4) Any other material prescribed by the administrative rules coordinator.

ITEM 7. Amend **281—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 256.7(3) and chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

[Filed 5/6/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5647C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to waivers

The State Board of Education hereby amends Chapter 4, “Waivers or Variances from Administrative Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

This rule making modernizes the Department's procedures for waiver of rules in light of the revisions to the Administrative Procedure Act made by 2020 Iowa Acts, House File 2389.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 24, 2021, as **ARC 5465C**. A public hearing was held on March 16, 2021, at 9:30 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on May 6, 2021.

Fiscal Impact

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

Jobs Impact

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

EDUCATION DEPARTMENT[281](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **281—Chapter 4**, title, as follows:

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

ITEM 2. Amend rule **281—4.1(17A,ExecOrd11)**, definition of “Waiver or variance,” as follows:

“*Waiver or variance*” means action by the director which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

ITEM 3. Amend rule 281—4.6(17A,ExecOrd11) as follows:

281—4.6(17A,ExecOrd11) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person for whom a waiver is being requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver ~~or variance~~ requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the five criteria described in rule 281—4.4(17A,ExecOrd11). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.
5. A history of any prior contacts between the board, the department and the petitioner relating to the regulated activity, license, or grant affected by the proposed waiver, including a description of each affected item held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, or grant within the last five years.
6. A detailed statement of the impact on student achievement for any person affected by the granting of a waiver.
7. Any information known to the requester regarding the board's or department's treatment of similar cases.
8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 4. Amend rule 281—4.11(17A,ExecOrd11) as follows:

281—4.11(17A,ExecOrd11) Public availability. All orders granting or denying a waiver petition shall be indexed, filed and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. The director may accordingly redact confidential information from petitions or orders prior to public inspection. Waiver information is available as described in rule 281—4.12(17A,ExecOrd11).

ITEM 5. Amend rule 281—4.12(17A,ExecOrd11) as follows:

281—4.12(17A,ExecOrd11) Summary reports Submission of waiver information. ~~Semiannually, the~~ When the department grants or denies a waiver, the department shall prepare a summary report identifying submit the information required by this rule on the Internet site established pursuant to Iowa Code section 17A.9A(4) within 60 days. The Internet site shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the ~~board's~~ department's actions on waiver requests. If practicable, the ~~report~~ report submission shall ~~detail~~ include information detailing the extent to which the granting of a waiver has established a precedent for additional waivers and has affected the general applicability of the rule itself. ~~Copies of the report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

[Filed 5/6/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5651C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to open enrollment of special education students

The State Board of Education hereby amends Chapter 17, "Open Enrollment," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2082.

Purpose and Summary

These amendments modernize the language used in provisions on open enrollment of special education students, based on 2020 Iowa Acts, Senate File 2082. No substantive change is intended. These amendments also conform to the federal process for resolving disputes regarding placement of students with disabilities in school choice programs.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 24, 2021, as **ARC 5463C**. A public hearing was held on March 16, 2021, at 9 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa. No one attended the

EDUCATION DEPARTMENT[281](cont'd)

public hearing. The Department received one written comment from the area education agency special education directors, who were in support of the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on May 6, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 17.6(3) as follows:

17.6(3) Policy on insufficient classroom space. No receiving district shall be required to accept an open enrollment request if it has insufficient classroom space to accommodate the pupil(s). Each district board shall adopt a policy which defines the term “insufficient classroom space” for that district. This policy shall establish a basis for the district to make determinations on the acceptance or denial, as a receiving district, of an open enrollment request. This policy may include, but shall not be limited to, one or more of the following: nature of the educational program, grade level, available instructional staff, instructional method, physical space, pupil-teacher ratio, equipment and materials, facilities either being planned or under construction, facilities planned to be closed, finances available, sharing agreement in force or planned, bargaining agreement in force, ~~law or rules governing~~ special education class size or caseload established pursuant to rule 281—41.408(256B,273,34CFR300), or board-adopted district educational goals and objectives. This policy shall be reviewed annually by the district board.

ITEM 2. Amend rule 281—17.11(282) as follows:

281—17.11(282) Special education students. If a parent/guardian requests open enrollment for a pupil requiring special education, as provided by Iowa Code chapter 256B and 281—Chapter 41, this request shall receive consideration under the following conditions.

17.11(1) Appropriateness of program. The request shall be granted only if the receiving district is able to provide within that district the appropriate special education program for that student in accordance with Iowa rules of special education, 281—Chapter 41. This determination shall be made by the receiving district in consultation with the resident district and the appropriate area education

EDUCATION DEPARTMENT[281](cont'd)

agency(ies) before approval of the application. In a situation where the appropriateness of the program is in question, the pupil shall remain enrolled in the program of the resident district until a final determination is made, unless all parties otherwise agree, as provided in 281—Chapter 41. ~~If the appropriateness of the special education program in the resident district is questioned by the parent, then the parent may request a due process hearing as provided by 281—41.507(256B,34CFR300) or a mediation conference as provided by 281—41.506(256B,34CFR300).~~ If the appropriateness of the special education program in the receiving district is at issue, the final determination of the appropriateness of a special education instructional program shall be the responsibility of ~~the director of special education of the area education agency in which the receiving district is located, based upon the decision~~ of the child's individualized education program team, which shall include a representative from the resident district that has the authority to commit district resources, and which decision is subject to the parent's procedural safeguards under 281—Chapter 41.

17.11(2) Class size and caseload. The provisions of subrule 17.6(3) apply to requests for open enrollment for a child with a disability. The following conditions apply:

a. The enrollment of the child in the receiving district's program would not cause the size of the class or caseload in that special education instructional program in the receiving district to exceed the maximum class size or caseload set forth in subrule 17.6(3).

b. If the child would be assigned to a general education class, there is sufficient classroom space, as established in subrule 17.6(3), for the general education class to which the child would be assigned.

17.11(3) Transportation. District transportation requirements, parent/guardian responsibilities and, where applicable, financial assistance for an open enrollment special education pupil shall be as provided by ~~rule~~ rules 281—17.9(282) and 281—41.412(256B,34CFR300).

17.11(4) Finance. The district of residence shall pay to the receiving district on the schedule set forth in subrule 17.10(5) the actual costs incurred by the receiving district in providing the appropriate special education program. These costs shall be based on the current year expenditures with needed adjustments made in the final payment. The responsibility for ensuring that an appropriate program is maintained for an open enrollment special education pupil shall rest with the resident district. The receiving district and the receiving area education agency director shall provide, at least on an annual basis, evaluation reports and information to the resident district on each special education open enrollment pupil. The receiving district shall provide notice to the resident district of all staffings scheduled for each open enrollment pupil. For an open enrolled special education pupil where the receiving district is located in an area education agency other than the area education agency within which the resident district is located, the resident district and the receiving district are required to forward a copy of any approved open enrollment request to the director of special education of their respective area education agencies. Any moneys received by the area education agency of the resident district for an approved open enrollment special education pupil shall be forwarded to the receiving district's area education agency.

[Filed 5/6/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5649C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to work-based learning programs

The State Board of Education hereby amends Chapter 48, "Statewide Work-Based Learning Intermediary Network," Iowa Administrative Code.

EDUCATION DEPARTMENT[281](cont'd)

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2629.

Purpose and Summary

2020 Iowa Acts, House File 2629, required the Department to establish “a process by which the department shall approve state-recognized work-based learning programs,” a process established by these rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 24, 2021, as **ARC 5467C**. A public hearing was held on March 16, 2021, at 10 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on May 6, 2021.

Fiscal Impact

Any fiscal impact of this rule making is capped by a General Fund appropriation (Fiscal Note, House File 2629, July 14, 2020).

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **281—Chapter 48**, title, as follows:

STATEWIDE WORK-BASED LEARNING INTERMEDIARY NETWORK

EDUCATION DEPARTMENT[281](cont'd)

ITEM 2. Adopt the following **new** 281—Chapter 48, Division I heading:

DIVISION I
STATEWIDE WORK-BASED LEARNING INTERMEDIARY NETWORK

ITEM 3. Adopt the following **new** 281—Chapter 48, Division II heading:

DIVISION II
FUTURE READY IOWA STATE-RECOGNIZED WORK-BASED LEARNING PROGRAMS

ITEM 4. Adopt the following **new** rule 281—48.5(256):

281—48.5(256) Program established. The provisions of this division implement the future ready Iowa state-recognized work-based learning program as authorized under Iowa Code sections 256.7 and 261.131.

48.5(1) Definitions. As used in this rule:

“*Apprenticeship program*” means an apprenticeship program authorized under federal statute or by the state board of education pursuant to this chapter.

“*Eligible program*” means a program eligible under the future ready Iowa skilled workforce last-dollar scholarship program.

48.5(2) Alignment with last-dollar scholarship. Except as provided in this chapter, the rules governing eligibility for students, programs, and institutions shall be the same as the eligibility criteria specified in 283—Chapter 15 for the future ready Iowa skilled workforce last-dollar scholarship program.

48.5(3) Eligibility. Pursuant to 283—subparagraph 15.3(1)“j”(2), a student enrolled in an apprenticeship program aligned to an eligible program may be enrolled in an eligible program on a part-time basis.

This rule is intended to implement Iowa Code section 256.7.

[Filed 5/6/21, effective 7/7/21]

[Published 6/2/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5648C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to weighting for English language learners

The State Board of Education hereby amends Chapter 60, “Programs for Students of Limited English Proficiency,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2013 Iowa Acts, Senate File 452, and 2014 Iowa Acts, Senate File 2347.

Purpose and Summary

The above-referenced Senate Files made changes in supplementary weighting for students who are English language learners. This rule making conforms to those Senate Files.

EDUCATION DEPARTMENT[281](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 24, 2021, as **ARC 5464C**. A public hearing was held on March 16, 2021, at 8 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on May 6, 2021.

Fiscal Impact

This rule making has no present fiscal impact to the State of Iowa, the legislation having already taken effect.

Jobs Impact

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

Waivers

This rule making, being required by statute, is not subject to waiver.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 60.6(1) as follows:

60.6(1) Weighting. A weighting is included in the weighted enrollment of the school district of residence for a period not exceeding ~~four~~ five years to provide funds for the excess costs of instruction of limited English proficient students above the costs of instruction of pupils in a regular curriculum.

a. A student may be included for weighting if the student meets the definition of a limited English proficient student and the student is being provided instruction related to limited English proficiency above the level of instruction provided to pupils in the regular curriculum.

b. A student may be included for weighting up to ~~four consecutive~~ five years, which need not be consecutive.

c. ~~If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, but returned to the same district by the date specified for counting students in the subsequent year, the student is considered to be served in consecutive years without regard to the break in instruction from the district~~ A student's eligibility for additional weighting is transferable to another district of residence.

d. ~~If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, and did not return to the same district by the date specified for counting students in the subsequent year, but did return to the same district in a later year, the student is considered to be a new student eligible to begin in year one if the student meets the requirements in paragraph "a."~~

EDUCATION DEPARTMENT[281](cont'd)

ITEM 2. Amend subrule 60.6(2) as follows:

60.6(2) ~~Modified allowable growth~~ Supplemental aid or modified supplemental amount. In addition to weighting, the school budget review committee (SBRC) may grant supplemental aid or a modified allowable growth supplemental amount for an unusual need to continue funding beyond the ~~four~~ five years of weighting or for costs in excess of the weighting to provide instruction to limited English proficient students above the costs of regular instruction.

a. A school district of residence may apply to the SBRC by the date specified in rule ~~289—~~6.3(257) for supplemental aid or a modified allowable growth to the SBRC supplemental amount for an unusual need for funding beyond the amount generated from weighting for students identified as limited English proficient who are provided instruction beyond the regular instruction. The eligible supplemental aid or modified allowable growth supplemental amount will be calculated as the total actual ~~budgeted~~ limited English proficient program (more commonly referred to as “English language learner program”) expenditures for the ~~current~~ previous year, reduced by the limited English proficient funding generated in the ~~current~~ previous budget year based on the limited English proficient count on the certified enrollment in the previous year, and reduced by any other grants, carryover, or other resources provided to the district for this program.

b. ~~In order to~~ A district of residence may apply to the SBRC for supplemental aid or a modified allowable growth under this subrule, the district must complete and submit the application form supplemental amount for an unusual need to continue funding beyond the five years of weighting no later than ~~January 15~~ December 1 following the date specified in Iowa Code section 257.6(1) for the certified enrollment. The supplemental aid or modified supplemental amount will be calculated by multiplying the number of resident students identified as limited English proficient who are provided instruction beyond the regular instruction, and who are being served beyond the five years of weighting on the certified enrollment, by the weighting provided under subrule 60.6(1), multiplied by the district cost per pupil in the current year.

c. The SBRC will act on ~~these~~ the requests ~~during~~ described in paragraphs 60.6(2) “a” and “b” no later than its March regular meeting. If the SBRC grants the district’s request for supplemental aid or a modified allowable growth supplemental amount, the department of management will increase the district’s budget authority by that amount.

e. The SBRC may require the district to appear at a hearing to discuss its request for supplemental aid or a modified allowable growth supplemental amount.

[Filed 5/6/21, effective 7/7/21]

[Published 6/2/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5650C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to custodial funds

The State Board of Education hereby amends Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2082.

EDUCATION DEPARTMENT[281](cont'd)

Purpose and Summary

This rule making renames a fund to align with current governmental accounting terminology and to conform to a legislative change.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 24, 2021, as **ARC 5462C**. A public hearing was held on March 16, 2021, at 8:30 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. A change from the Notice has been made in subrule 98.101(3) to make the sentence structure parallel.

Adoption of Rule Making

This rule making was adopted by the State Board on May 6, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

This rule amendment is required by statute and is not waivable.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making action is adopted:

Amend rule 281—98.101(298A) as follows:

281—98.101(298A) Agency Custodial funds. Agency Custodial funds are used to account for funds that are held in a custodial capacity by the school district for individuals, private organizations, or other governments. Agency Custodial funds may include moneys collected for another government, a grant consortium when the school district serves as fiscal agent for the other school districts but has no managerial responsibilities, or funds for a teacher or a parent-teacher organization which has its own federal identification number (FIN). In ~~an agency~~ a custodial fund, the school district or area education agency merely renders a service as a custodian of the assets for the organization owning the assets and the school district or area education agency is not an owner. Agency Custodial funds typically involve only the receipt, temporary investment and remittance of assets to their rightful owners.

98.101(1) Sources of receipts in agency custodial funds. Sources of receipts in ~~the agency custodial~~ funds include temporary receipts of cash, investment instruments, property, and interest on investments held.

EDUCATION DEPARTMENT[281](cont'd)

98.101(2) *Appropriate uses of ~~agency~~ custodial funds.* Appropriate disbursements from ~~an agency~~ a custodial fund depend on the nature of the rightful owners' conditions or the responsibilities of the custodian. Typically, disbursement will involve remittance of assets to their rightful owners or to a third party on behalf and at the request of the rightful owners. The school district cannot disburse more funds at any point in time than it has received from the rightful owner.

98.101(3) *Inappropriate uses of ~~agency~~ custodial funds.* Inappropriate disbursements from ~~agency~~ custodial funds include any disbursement which is not consistent with the terms of the agreement, is not legal to a school district, or ~~that~~ exceeds the amount of funds that have been received from the rightful owner or on behalf of the rightful owner.

[Filed 5/6/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5670C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to hospital licensing board

The Inspections and Appeals Department hereby amends Chapter 6, "Uniform Waiver and Variance Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 10A.104(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

Purpose and Summary

This rule making removes references to the Hospital Licensing Board. The Hospital Licensing Board was eliminated through 2020 Iowa Acts, House File 2627.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 7, 2021, as **ARC 5551C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on May 12, 2021.

Fiscal Impact

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

Jobs Impact

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

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 21, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **481—6.2(10A,17A,ExecOrd11)**, definition of “Attached units,” as follows:
 “Attached units” means units attached to the department and includes the employment appeal board, ~~hospital licensing board~~, state citizen foster care review board, racing and gaming commission, and state public defender’s office.

ITEM 2. Amend subrule 6.11(1) as follows:

6.11(1) Director/board discretion. The decision on whether the circumstances justify the granting of a waiver or variance shall be made at the discretion of the director upon consideration of all relevant factors, except for the below-listed programs, for which the applicable board, commission or state public defender shall make the decision, upon consideration of all relevant factors:

- a. Employment appeal board, 486—Chapter 1.
- ~~b. Hospital licensing board, 481—Chapter 51.~~
- ~~c.~~ b. State citizen foster care review board, 489—Chapter 1.
- ~~d.~~ c. Racing and gaming commission, 491—Chapter 1.
- ~~e.~~ d. State public defender’s office, 493—Chapter 1.

[Filed 5/12/21, effective 7/21/21]

[Published 6/2/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5671C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to residual solvent limits

The Inspections and Appeals Department hereby amends Chapter 32, “Consumable Hemp Products,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2020 Iowa Acts, House File 2581.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2581.

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

Purpose and Summary

This rule making corrects the unit of measurement identified for residual solvent limits. The unit of measurement is changed from “parts per billion” to “parts per million.”

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 7, 2021, as **ARC 5552C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on May 12, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making action is adopted:

Amend paragraph **32.3(2)“b”** as follows:

b. Residual solvent limits.

- (1) 1,2-~~Dimethoxethane~~ Dimethoxyethane, 100 parts per ~~billion~~ million.
- (2) 1,4-Dioxane, 380 parts per ~~billion~~ million.
- (3) 1-Butanol, 5,000 parts per ~~billion~~ million.
- (4) 1-Pentanol, 5,000 parts per ~~billion~~ million.
- (5) 1-Propanol, 5,000 parts per ~~billion~~ million.
- (6) 2-Butanol, 5,000 parts per ~~billion~~ million.
- (7) 2-Butanone, 5,000 parts per ~~billion~~ million.
- (8) 2-Ethoxyethanol, 5,000 parts per ~~billion~~ million.
- (9) 2-methylbutane, 5,000 parts per ~~billion~~ million.
- (10) 2-Propanol (IPA), 5,000 parts per ~~billion~~ million.
- (11) Acetone, 5,000 parts per ~~billion~~ million.
- (12) Acetonitrile, 410 parts per ~~billion~~ million.
- (13) Benzene, 2 parts per ~~billion~~ million.

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

- (14) Butane, 5,000 parts per ~~billion~~ million.
- (15) Cumene, 70 parts per ~~billion~~ million.
- (16) Cyclohexane, 3,880 parts per ~~billion~~ million.
- (17) Dichloromethane, 600 parts per ~~billion~~ million.
- (18) 2,2-dimethylbutane, 290 parts per ~~billion~~ million.
- (19) 2,3-dimethylbutane, 290 parts per ~~billion~~ million.
- (20) 1,2-dimethylbenzene, 2,170 parts per ~~billion~~ million.
- (21) 1,3-dimethylbenzene, 2,170 parts per ~~billion~~ million.
- (22) 1,4-dimethylbenzene, 2,170 parts per ~~billion~~ million.
- (23) Dimethyl sulfoxide, 5,000 parts per ~~billion~~ million.
- (24) Ethanol, 5,000 parts per ~~billion~~ million.
- (25) Ethyl acetate, 5,000 parts per ~~billion~~ million.
- (26) Ethylbenzene, 2,170 parts per ~~billion~~ million.
- (27) Ethyl ether, 5,000 parts per ~~billion~~ million.
- (28) Ethylene glycol, 620 parts per ~~billion~~ million.
- (29) Ethylene oxide, 50 parts per ~~billion~~ million.
- (30) Heptane, 5,000 parts per ~~billion~~ million.
- (31) n-Hexane, 290 parts per ~~billion~~ million.
- (32) Isopropyl acetate, 5,000 parts per ~~billion~~ million.
- (33) Methanol, 3,000 parts per ~~billion~~ million.
- (34) Methylpropane, 5,000 parts per ~~billion~~ million.
- (35) 2-Methylpentane, 290 parts per ~~billion~~ million.
- (36) 3-Methylpentane, 290 parts per ~~billion~~ million.
- (37) N,N-dimethylacetamide, 1,090 parts per ~~billion~~ million.
- (38) Pentane, 5,000 parts per ~~billion~~ million.
- (39) Propane, 5,000 parts per ~~billion~~ million.
- (40) Pyridine, 200 parts per ~~billion~~ million.
- (41) Sulfolane, 160 parts per ~~billion~~ million.
- (42) Tetrahydrofuran, 720 parts per ~~billion~~ million.
- (43) Toluene, 890 parts per ~~billion~~ million.
- (44) Xylenes, Total (ortho-, meta-, para-), 2,170 parts per ~~billion~~ million.

[Filed 5/12/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5643C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rule making related to number of voting members

The Iowa Finance Authority hereby amends Chapter 1, "General," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2536.

IOWA FINANCE AUTHORITY[265](cont'd)

Purpose and Summary

This rule making updates subrule 1.3(2) in accordance with changes included in 2020 Iowa Acts, House File 2536, section 10. The legislation further refined the description of the Iowa Finance Authority Board by noting the number of voting members of the Board.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 10, 2021, as **ARC 5414C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on April 7, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making action is adopted:

Amend subrule 1.3(2) as follows:

1.3(2) Authority board and staff. The powers of the authority are vested in and exercised by a board of nine voting members, appointed by the governor and subject to confirmation by the senate. The authority also includes one ex officio, voting member of the agricultural development board created in Iowa Code section 16.2C, who must be designated by that board. The ex officio, voting member designated by the agricultural development board shall serve at the pleasure of that board. The authority also includes four ex officio, nonvoting legislative members, as set forth in Iowa Code section 16.2(3). A chairperson, vice-chairperson and treasurer are elected annually by the members, generally at the July

IOWA FINANCE AUTHORITY[265](cont'd)

board meeting each year. Authority staff consists of an executive director, also appointed by the governor and subject to confirmation by the senate, and additional staff as approved by the executive director.

[Filed 5/5/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5642C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rule making related to waivers

The Iowa Finance Authority hereby amends Chapter 11, "Iowa Main Street Loan Program," and Chapter 18, "Waivers and Variances from Administrative Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

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

Purpose and Summary

This rule making updates rules in accordance with changes included in 2020 Iowa Acts, House File 2389, section 10. The changes called for deletions of the word "variance" when the word is used in relation to "waiver." Amendments are also adopted relating to submission of information regarding waivers on the Legislative Services Agency's Internet site.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 10, 2021, as **ARC 5412C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on April 7, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

IOWA FINANCE AUTHORITY[265](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 265—11.2(16) as follows:

265—11.2(16) Waiver. The authority may by resolution waive ~~or vary~~ particular provisions of these rules in accordance with ~~rule 265—1.11(16) or, after August 1, 2001, 265—Chapter 18.~~

ITEM 2. Amend **265—Chapter 18**, title, as follows:

WAIVERS AND VARIANCES FROM ADMINISTRATIVE RULES

ITEM 3. Amend rule **265—18.1(17A,16)**, definitions of “Authority” and “Waiver,” as follows:

“*Authority*” means the Iowa finance authority whose powers are exercised by a board of nine voting members appointed by the governor pursuant to Iowa Code section 16.2.

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

ITEM 4. Amend rule 265—18.4(17A,16) as follows:

265—18.4(17A,16) Criteria for waiver ~~or variance~~. In response to a petition completed pursuant to rule 265—18.6(17A,16), the authority may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the authority finds, based on clear and convincing evidence, all of the following:

1. to 4. No change.

In determining whether a waiver ~~or variance~~ should be granted, the authority shall consider the public interest, policies and legislative intent of the statute on which the rule is based.

ITEM 5. Amend rule 265—18.6(17A,16), introductory paragraph, as follows:

265—18.6(17A,16) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester (for an example of a petition for waiver ~~or variance~~, see Exhibit A at the end of this chapter):

ITEM 6. Amend rule 265—18.12(17A,16) as follows:

265—18.12(17A,16) ~~Summary reports~~ Submission of waiver information. ~~The authority shall semiannually prepare a summary report identifying~~ Within 60 days of granting or denying a waiver, the authority shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the authority's actions on waiver requests. If practicable, the report shall detail the extent to which granting a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 7. Amend rule 265—18.13(17A,16), introductory paragraph, as follows:

265—18.13(17A,16) Voiding or cancellation. A waiver ~~or variance~~ is void if the material facts upon which the petition is based are not true or if material facts have been withheld. A waiver ~~or variance~~ issued by the authority pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the authority issues an order finding any of the following:

ITEM 8. Amend ~~265—Chapter 18~~, Exhibit A, as follows:

Exhibit A

Sample Petition for Waiver/~~Variance~~

BEFORE THE IOWA FINANCE AUTHORITY

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



PETITION FOR WAIVER

A petition for waiver ~~or variance~~ from a rule adopted by the authority shall include the following information in the petition for waiver ~~or variance~~ where applicable and known:

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

Petitioner’s signature

Date

IOWA FINANCE AUTHORITY[265](cont'd)

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

1. The petitioner has the burden of proving to the authority, by clear and convincing evidence, the following: (a) application of the rule to the petitioner would result in an undue hardship on the petitioner; and (b) waiver ~~or variance~~ in the specific case would not prejudice the substantial legal rights of any person; and (c) the provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and (d) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.
2. The executive director may request additional information from or request an informal meeting with the petitioner prior to issuing a ruling granting or denying a request for waiver ~~or variance~~.
3. All petitions for waiver ~~or variance~~ must be submitted in writing to the attention of the executive director of the Iowa finance authority at the address set forth in rule 265—1.3(16). If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

[Filed 5/5/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5672C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to use of injectables by licensed optometrists

The Board of Optometry hereby amends Chapter 182, "Practice of Optometrists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 272C.2 and 272C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 154.1(3).

Purpose and Summary

2020 Iowa Acts, House File 310, amended Iowa Code section 154.1, allowing optometrists to administer injectables if the optometrists are certified by the Board of Optometry. This rule making states the prescribed injections and establishes the educational training requirements that must be completed by a licensed optometrist for approval to use injectables.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5383C**. A public hearing was held on February 2, 2021, at 10 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing.

One comment was received in opposition to this rule making. The comment was submitted by the American Society of Plastic Surgeons, and the commenter requested that the rule making be withdrawn. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on April 1, 2021.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** rule 645—182.5(154):

645—182.5(154) Use of injectables. A licensed optometrist shall not administer any injection prior to receiving approval from the board. Upon approval from the board, a licensed optometrist may administer only the following injections:

182.5(1) Subconjunctival injections for the medical treatment of the eye.

182.5(2) Intralesional injections for the treatment of chalazia.

182.5(3) Botulinum toxin to the muscles of facial expression innervated by the facial nerve, including for cosmetic purposes.

182.5(4) Injections to counteract an anaphylactic reaction.

ITEM 2. Adopt the following **new** rule 645—182.6(154):

645—182.6(154) Education and training approval.

182.6(1) The board shall not approve the use of injections other than to counteract an anaphylactic reaction unless the licensed optometrist demonstrates to the board sufficient educational or clinical training from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the Council for Higher Education Accreditation or by the United States Department of Education, or clinical training equivalent to clinical training offered by such an institution.

182.6(2) A licensed optometrist who completes the requirements of rule 645—182.7(154) is deemed approved by the board for use of injectables as outlined in this chapter.

ITEM 3. Adopt the following **new** rule 645—182.7(154):

645—182.7(154) Education and training. In order to use injections, a licensed optometrist shall meet the following requirements for board approval:

182.7(1) Be fully licensed and in good standing within the state of Iowa as a licensed optometrist.

182.7(2) Have completed a total of 24 hours of approved educational training pertaining to injections.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- a. At least 4 hours of the 24 hours must be clinical training.
- b. At least 5 hours of the 24 hours must pertain to the administration and side effects of injection treatment for botulinum toxin and chalazia.

182.7(3) Any practitioner exercising injection privileges must be able to produce proof of completion of requirements at the request of the board.

[Filed 5/12/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5673C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to Honey Creek premier destination park bonds

The Revenue Department hereby amends Chapter 40, "Determination of Net Income," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.17.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.7 and 2019 Iowa Acts, Senate File 282.

Purpose and Summary

2019 Iowa Acts, Senate File 282, repealed the Honey Creek Premier Destination Park Bond Program and related Iowa Code provisions, including an exemption from federal and state income taxes for bonds issued under that program. The Department has adopted this rule making to strike a reference to Honey Creek Premier Destination Park bonds from a nonexhaustive list of exempt bonds.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 7, 2021, as **ARC 5553C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on May 12, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. There was no fiscal note for 2019 Iowa Acts, Senate File 282.

Jobs Impact

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

REVENUE DEPARTMENT[701](cont'd)

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making action is adopted:

Amend rule 701—40.3(422) as follows:

701—40.3(422) Interest and dividends from foreign securities and securities of state and other political subdivisions. Interest and dividends from foreign securities and from securities of state and other political subdivisions are to be included in Iowa net income. Certain types of interest and dividends, because of specific exemption, are not includable in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the item of income is specifically exempted from state taxation by the laws or constitution of Iowa or of the United States, it must be added to Iowa taxable income.

The following is a noninclusive listing of bonds issued by the state of Iowa and its political subdivisions, interest on which is exempt from both federal and state income taxes.

1. to 19. No change.

~~20. Honey Creek premier destination park bonds: Bonds issued under Iowa Code section 463C.12(8).~~

~~21.~~ 20. Iowa utilities board and Iowa consumer advocate building project bonds: Bonds issued under Iowa Code section 12.91(9).

~~22.~~ 21. Iowa jobs program revenue bonds: Bonds issued under Iowa Code section 12.87(8).

Interest from repurchase agreements involving obligations of the type discussed in this rule is subject to Iowa income tax. *Nebraska Department of Revenue v. John Loewenstein*, 513 US 123 (1994). *Everett v. State Dept. of Revenue and Finance*, 470 N.W.2d 13 (Iowa 1991).

For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—40.52(422).

Gains and losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions, as distinguished from interest income, shall be taxable for state income tax purposes.

This rule is intended to implement Iowa Code section 422.7.

[Filed 5/12/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5638C**VETERINARY MEDICINE BOARD[811]****Adopted and Filed****Rule making related to licensure by verification**

The Board of Veterinary Medicine hereby amends Chapter 1, “Description of Organization and Definitions,” and Chapter 6, “Application for Veterinary Licensure,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

Purpose and Summary

This rule making implements 2020 Iowa Acts, House File 2627, by allowing a veterinarian licensed in another jurisdiction to more easily obtain an Iowa license, so long as the veterinarian is an Iowa resident or is married to an active duty member of the military who is relocated to Iowa on a permanent basis.

This rule making also establishes application procedures including verifying that the applicant’s license from another state complies with the requirements of Iowa Code, requirements for establishing residency in Iowa, and disciplinary actions. Finally, the rule making renumbers existing rules to account for new rule 811—6.6(169) and updates one affected cross reference.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 10, 2021, as **ARC 5434C**. A virtual public hearing was held on March 5, 2021, at 1 p.m. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on April 30, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

Review by Administrative Rules Review Committee

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

VETERINARY MEDICINE BOARD[811](cont'd)

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **811—1.4(17A,169)**, definition of “Certificate,” as follows:
“Certificate” means a credential issued by the board to practice on an animal as a certified veterinary student pursuant to ~~811—subrule 6.6(3)~~ **811—subrule 6.7(3)**.

ITEM 2. Renumber rules **811—6.6(169)** and **811—6.7(169)** as **811—6.7(169)** and **811—6.8(169)**.

ITEM 3. Adopt the following new rule **811—6.6(272C)**:

811—6.6(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

6.6(1) Eligibility. A person may seek licensure by verification if the person is licensed in at least one other jurisdiction, and either:

- a. The person establishes residency in the state of Iowa; or
- b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station in Iowa.

6.6(2) Board application. The applicant must submit the following:

- a. A completed application for licensure by verification.
- b. Payment of the application fee.
- c. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant’s license, verifying that the applicant’s license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board. This form is available on the board’s website.

d. Proof of residency in the state of Iowa or proof of military member’s official permanent change of station in Iowa. Proof of residency includes one or more of the following:

- (1) A residential mortgage, lease, or rental agreement;
- (2) A utility bill;
- (3) A bank statement;
- (4) A paycheck or pay stub;
- (5) A property tax statement;
- (6) A federal or state government document;
- (7) Any other board-approved document that reliably confirms Iowa residency.

e. A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.

6.6(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will not take action on the application until the disciplinary matter has been resolved.

6.6(4) Applicants with pending licensing complaints or investigations. If an applicant currently has a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will not take action on the application until the complaint, allegation, or investigation has been resolved.

VETERINARY MEDICINE BOARD[811](cont'd)

6.6(5) Limitations. A person who has had a license revoked, or who has voluntarily surrendered a license while under investigation for unprofessional conduct in another jurisdiction, is ineligible for licensure by verification.

[Filed 5/3/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5641C

VETERINARY MEDICINE BOARD[811]

Adopted and Filed

Rule making related to licensure

The Board of Veterinary Medicine hereby amends Chapter 6, "Application for Veterinary Licensure," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.5 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

This rule making updates the fee schedule for veterinarians by adding a new application fee for license by verification. The fee is \$50.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 24, 2021, as **ARC 5474C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on April 30, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

VETERINARY MEDICINE BOARD[811](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making action is adopted:

Amend rule 811—6.2(169) as follows:

811—6.2(169) Fee schedule for veterinarians. The following fees shall be collected by the board and shall not be refunded except by board action in unusual instances such as documented illness of the applicant, death of the applicant, inability of the applicant to comply with the rules of the board, or withdrawal of an examination application provided withdrawal is received in writing 45 days prior to the examination date. However, the state fees may be waived for qualifying military service personnel upon request. Examination fees shall be nontransferable from one examination to another.

The fee for the NAVLE, which is utilized by the board as a part of the licensure process, shall be the fee charged that year by NBVME, plus an administrative fee payable to the board.

Based on the board's anticipated financial requirements, the following fees are hereby adopted:

License—application fee	\$50
NAVLE examination fee	set by NBVME
Board administrative fee for NAVLE.	\$25
State veterinary examination fee	set by board
State veterinary administration fee	set by board
Triennial license	\$60
Late renewal penalty	\$100
License by endorsement—application fee	\$50
<u>License by verification—application fee</u>	<u>\$50</u>
Reactivation fee for lapsed or inactive license	\$100
Reinstatement fee	\$100
Duplicate license.	\$15
Temporary permit	\$35
Temporary permit application fee	\$15
Official licensure verification	\$15
Charge for insufficient funds or returned checks.	\$25
Senior student certificate	\$0

This rule is intended to implement Iowa Code sections 169.5 and 169.12.

[Filed 5/3/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5639C**VETERINARY MEDICINE BOARD[811]****Adopted and Filed****Rule making related to registration or licensure by verification**

The Board of Veterinary Medicine hereby amends Chapter 8, “Auxiliary Personnel,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

Purpose and Summary

This rule making implements 2020 Iowa Acts, House File 2627, by allowing a veterinary technician registered or licensed in another jurisdiction to more easily obtain an Iowa registration, so long as the veterinary technician is an Iowa resident or is married to an active duty member of the military who is relocated to Iowa on a permanent basis.

This rule making also establishes application procedures including verification that the applicant’s registration or license from another state complies with the requirements of Iowa Code, requirements for establishing residency in Iowa, and disciplinary actions.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 10, 2021, as **ARC 5432C**. A virtual public hearing was held on March 5, 2021, at 1 p.m. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on April 30, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

Review by Administrative Rules Review Committee

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

VETERINARY MEDICINE BOARD[811](cont'd)

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

Effective Date

This rule making will become effective on July 7, 2021.

The following rule-making action is adopted:

Adopt the following **new** rule 811—8.11(272C):

811—8.11(272C) Registration as veterinary technician by verification. Registration by verification for a veterinary technician is available in accordance with the following:

8.11(1) Eligibility. A person may seek registration by verification if the person is registered or licensed in at least one other jurisdiction, and either:

- a. The person establishes residency in the state of Iowa; or
- b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station in Iowa.

8.11(2) Board application. The applicant must submit the following:

- a. A completed application for registration by verification.
- b. Payment of the application fee.
- c. A verification form, completed by the licensing/registration authority in the jurisdiction that issued the applicant's license or registration, verifying that the applicant's license or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing/registration authority to the board. This form is available on the board's website.
- d. Proof of residency in the state of Iowa or proof of military member's official permanent change of station in Iowa. Proof of residency includes one or more of the following:
 - (1) A residential mortgage, lease, or rental agreement;
 - (2) A utility bill;
 - (3) A bank statement;
 - (4) A paycheck or pay stub;
 - (5) A property tax statement;
 - (6) A federal or state government document;
 - (7) Any other board-approved document that reliably confirms Iowa residency.
- e. Proof of passing Iowa's veterinary technician state examination.
- f. A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.

8.11(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will not take action on the application for registration until the matter has been resolved.

8.11(4) Applicants with pending licensing/registration complaints or investigations. If an applicant currently has a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will not take action on the application for registration until the complaint, allegation, or investigation has been resolved.

8.11(5) Limitations. A person who has had a license/registration revoked, or who has voluntarily surrendered a license/registration while under investigation for unprofessional conduct in another jurisdiction, is ineligible for registration by verification.

[Filed 5/3/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

ARC 5640C**VETERINARY MEDICINE BOARD[811]****Adopted and Filed****Rule making related to prescribing and dispensing drugs to clients**

The Board of Veterinary Medicine hereby amends Chapter 12, “Standards of Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 169.

Purpose and Summary

This amendment allows a licensed veterinarian to prescribe and dispense a drug directly to a customer upon request, unless prohibited by state or federal law. The veterinarian may charge a fee for doing so. The new language does not apply to livestock.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 10, 2021, as **ARC 5431C**. The Board received one written comment, which stated the rule was “petty” and intended to “get back at clients.” The Board disagrees with this comment. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on April 30, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 7, 2021.

VETERINARY MEDICINE BOARD[811](cont'd)

The following rule-making action is adopted:

Amend subrule 12.3(1) as follows:

12.3(1) All prescription drugs, medications and controlled substances must be purchased, maintained, handled, prescribed and dispensed in compliance with state and federal requirements including but not limited to the requirements of the Iowa board of pharmacy, the U.S. Occupational Safety and Health Administration, the U.S. Department of Agriculture, the U.S. Food and Drug Administration, the U.S. Environmental Protection Agency and the U.S. Drug Enforcement Administration.

a. A valid veterinarian/client/patient relationship must be established before prescription drugs or medications may be dispensed or a prescription released. All drugs or medications administered, prescribed or dispensed must be documented in the patient's medical record. The sale of veterinary prescription drugs or medications or the extra-label use of any drug, medication or product by a licensed veterinarian without a valid veterinarian/client/patient relationship is not permissible.

b. If a veterinarian prescribes a drug for the client's animal, the veterinarian shall, upon request, provide the prescription to the client, unless prohibited by state or federal law or to prevent inappropriate use. The veterinarian may charge a fee for issuing the prescription. This paragraph does not apply to livestock as defined in Iowa Code section 717.1(4).

[Filed 5/3/21, effective 7/7/21]

[Published 6/2/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/21.

PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR ELECTRONIC FORMAT DUE TO COVID-19

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a Notice of Intended Action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 99 of the Governor's proclamation of disaster emergency issued April 30, 2021: governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202021.04.30.pdf.