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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 2020

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
1	Friday, June 12, 2020	July 1, 2020
2	Wednesday, June 24, 2020	July 15, 2020
3	Friday, July 10, 2020	July 29, 2020

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 Thursday, June 4, 2020, at 7 a.m. The meeting will be held as a videoconference. The meeting may be continued on Friday, June 5, 2020, at 7 a.m. if needed. 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 20, 2020, Iowa Administrative Bulletin.

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Aquatic life water quality criteria for certain metals, 61.3(3) Notice **ARC 5044C**..... 6/3/20

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Unfair trade practices—standards for annuity agents and securities agents, amendments to ch 15 Filed **ARC 5045C** 6/3/20

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Physician assistants—licensure, practice, discipline, 326.1, 326.6, 326.15, 326.18, 326.19(3)"b," 327.1, 327.4, 327.5, 327.6(2), 329.2(25) Notice **ARC 5043C** 6/3/20

TRANSPORTATION DEPARTMENT[761]

Office name and contact information update, 410.1(3) Filed **ARC 5046C**..... 6/3/20

Motor carriers, 524.2 to 524.6, 524.7(2), 524.8, 524.11, 524.13, 524.15, 524.18 Filed **ARC 5047C** 6/3/20

Driver's license examinations, amendments to ch 604 Filed **ARC 5048C** 6/3/20

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
109 South Summer Street
St. Ansgar, Iowa 50472

Representative Steven Holt
1430 Third Avenue South
Denison, Iowa 51442

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

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

Representative Joe Mitchell
Mount Pleasant, Iowa

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

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

Representative Rick Olson
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NOTE: See also the Advisory Notice on page 2743.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Aquatic life water quality criteria for certain metals, 61.3(3) IAB 6/3/20 ARC 5044C	Via video/conference call Contact Roger Bruner Email: roger.bruner@dnr.iowa.gov	June 23, 2020 3 to 4 p.m.
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LABOR SERVICES DIVISION[875]

Conveyances—delay of ASME enforcement date, 72.10(2), 73.1 IAB 5/20/20 ARC 5040C	To participate by conference call: Dial 419.702.0311 When prompted, use PIN 484 517 302#	June 10, 2020 9 a.m. (If requested)
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PROFESSIONAL LICENSURE DIVISION[645]

Physician assistants—licensure, practice, discipline, 326.1, 326.6, 326.15, 326.18, 326.19(3)“b,” 327.1, 327.4, 327.5, 327.6(2), 329.2(25) IAB 6/3/20 ARC 5043C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2020 8 to 8:30 a.m.
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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 5044C**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action****Proposing rule making related to aquatic life water quality criteria and providing an opportunity for public comment**

The Environmental Protection Commission hereby proposes to amend Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 455B.173(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 455B.173(2).

Purpose and Summary

The purpose of the proposed amendments is to update the current aquatic life water quality criteria with the latest scientific information on metal toxicity. Research has established dissolved metals (except for aluminum) more closely approximate the bioavailable fraction of metals in the water column rather than total recoverable metals (the current criteria). This new data indicates that the dissolved portion of metals in the water column is the portion that is most easily absorbed by aquatic life and is therefore a better measure of toxicity. Thus, measuring for total recoverable metals, in light of the new data, is an overly stringent approach. Because of this research, the Commission is proposing to convert the aquatic life water quality criteria from total recoverable metals to dissolved metals based on available conversion factors for the following metals: arsenic (III), cadmium, chromium (VI), lead, mercury, nickel, silver, and zinc. In addition, the aquatic life criteria for cadmium will be recalculated from the U.S. Environmental Protection Agency (EPA)-published 2016 national criteria for Iowa waters based on the resident aquatic species residing in Iowa waters.

Unlike other metals, some non-dissolved forms of aluminum can be toxic to aquatic life. As a result, the Commission is proposing aluminum aquatic life water quality criteria in the form of bioavailable concentration values, which include both dissolved and some non-dissolved (colloidal) aluminum which can be toxic to aquatic life. The proposed aluminum criteria also take into account new data which establish that aluminum bioavailability is dependent upon ambient levels of certain chemical parameters in the receiving stream, like pH, dissolved organic carbon, and hardness. These criteria were developed using the EPA’s 2017 toxicity data and site-specific water chemistry data for Iowa waters. The criteria also provide wastewater permittees the option of collecting data specific to the permittee’s own receiving stream. The Commission believes that the proposed aluminum criteria will provide greater flexibility to wastewater permittees while still protecting aquatic life.

Fiscal Impact

This proposed rule making has no fiscal impact to the state of Iowa but will have a positive fiscal impact on the private sector. Thirty facilities are currently subject to the existing aluminum criteria. Of these 30 facilities, 7 facilities have had aluminum permit limit violations, currently have a compliance schedule for aluminum, or will have a compliance schedule in their upcoming wastewater permit, and have enough data for evaluation. The Commission estimates that three of those seven facilities will be able to comply with the proposed aluminum criteria and will therefore be able to avoid the cost of installing aluminum removal technology. The Commission estimates this savings to be \$42,503,000.

Currently, 81 facilities are subject to the rest of the metals criteria (arsenic (III), cadmium, chromium (VI), lead, mercury, nickel, silver, and zinc). The Commission estimates that 13 facilities will be able to

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

comply with the proposed dissolved metal criteria in this rule making and will therefore be able to avoid the cost of installing metals removal technology. The Commission estimates the savings to be between \$42,746,700 and \$52,763,000.

Therefore, the Commission estimates a total of 16 facilities may receive projected cost savings ranging from approximately \$85 million to \$95 million. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, these proposed amendments are expected to have a positive impact on jobs. Overall, the proposed rule making will result in a savings ranging from \$85 million to \$95 million for wastewater dischargers across the state. The savings will be achieved by dischargers who will be able to avoid the installation of costly treatment technology because of their ability to protect aquatic life in a more reasonable manner. The potential costs associated with this proposed rule making are negligible.

The savings resulting from this rule making will have a positive impact on private sector jobs and employment opportunities in the state. Lower wastewater treatment costs at industrial facilities are expected to have a positive impact on jobs because industries can put the savings toward investment in their businesses, including new hiring. Similarly, businesses and industries that discharge to municipal wastewater treatment plants will benefit from lower utility rates if the municipal wastewater treatment plant can lower its operating costs as a result of this rule making. That savings on utility rates for businesses and industries can be put toward investment in their companies to create jobs.

A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to Chapter 561—10, as adopted by reference at 567—13.1(17A), to the extent such waiver is consistent with federal water quality standards requirements.

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 23, 2020. Comments should be directed to:

Roger Bruner
Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: roger.bruner@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows. Persons who wish to attend the conference call should contact Roger Bruner via email at roger.bruner@dnr.iowa.gov. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Roger Bruner prior to the hearing to facilitate an orderly hearing.

June 23, 2020
3 to 4 p.m.

Video/conference call
Wallace State Office Building

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Persons who wish to make oral comments at the public hearing will 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 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 subrule **61.3(3)**, TABLE 1, Criteria for Chemical Constituents, parameters for aluminum, arsenic (III), cadmium, chromium (VI), lead, mercury (II), nickel, silver, and zinc, as follows:

Aluminum	Chronic ^(r)	87 <u>890</u> ^(o)	—	87 <u>890</u> ^(o)	87 <u>890</u> ^(o)	87 <u>890</u> ^(o)	748 <u>890</u> ^(o)	—	—
	Acute ^(r)	1106 <u>2,500</u> ^(o)	—	750 <u>2,500</u> ^(o)	750 <u>2,500</u> ^(o)	750 <u>2,500</u> ^(o)	983 <u>2,500</u> ^(o)	—	—
Arsenic (III)	Chronic ^(p)	200 <u>150</u>	—	150	150	150	200 <u>150</u>	—	—
	Acute ^(p)	360 <u>340</u>	—	340	340	340	360 <u>340</u>	—	—
	Human Health — Fish	—	—	—	—	—	—	—	50 ^{(e)(g)}
	Human Health — F & W	—	—	—	—	—	—	—	.18 ^{(f)(g)}
Cadmium	Chronic ^(p)	1 <u>1.2</u> ^(h)	—	.45 <u>1.2</u> ^(h)	.45 <u>1.2</u> ^(h)	.45 <u>1.2</u> ^(h)	1 <u>1.2</u> ^(h)	—	—
	Acute ^(p)	4 <u>3.4</u> ^(h)	—	4.32 <u>5.35</u> ^(h)	4.32 <u>12.5</u> ^(h)	4.32 <u>12.5</u> ^(h)	4 <u>5.35</u> ^(h)	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	168 ^(e)
	MCL	—	—	—	—	—	—	5	—
Chromium (VI)	Chronic ^(p)	40 <u>11</u>	—	11	11	11	40 <u>11</u>	—	—
	Acute ^(p)	60 <u>16</u>	—	16	16	16	15 <u>16</u>	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	3365 ^(e)
	MCL	—	—	—	—	—	—	100	—
Lead	Chronic ^(p)	3 <u>5.3</u> ⁽ⁱ⁾	—	7.7 <u>5.3</u> ⁽ⁱ⁾	7.7 <u>5.3</u> ⁽ⁱ⁾	7.7 <u>5.3</u> ⁽ⁱ⁾	3 <u>5.3</u> ⁽ⁱ⁾	—	—
	Acute ^(p)	80 <u>136</u> ⁽ⁱ⁾	—	197 <u>136</u> ⁽ⁱ⁾	197 <u>136</u> ⁽ⁱ⁾	197 <u>136</u> ⁽ⁱ⁾	80 <u>136</u> ⁽ⁱ⁾	—	—
	MCL	—	—	—	—	—	—	50	—
Mercury (II)	Chronic ^(p)	3.5 <u>0.77</u>	—	.9 <u>0.77</u>	.9 <u>0.77</u>	.9 <u>0.77</u>	.91 <u>0.77</u>	—	—
	Acute ^(p)	6.5 <u>1.4</u>	—	1.64 <u>1.4</u>	1.64 <u>1.4</u>	1.64 <u>1.4</u>	1.7 <u>1.4</u>	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	.15 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.05 ^(f)
Nickel	Chronic ^(p)	350 <u>93</u> ^(k)	—	93 ^(k)	93 ^(k)	93 ^(k)	150 <u>93</u> ^(k)	—	—
	Acute ^(p)	3250 <u>840</u> ^(k)	—	843 <u>840</u> ^(k)	843 <u>840</u> ^(k)	843 <u>840</u> ^(k)	1400 <u>840</u> ^(k)	—	—

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Human Health + — Fish	—	—	—	—	—	—	—	4600 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	610 ^(f)
Silver	Chronic ^(p)	N/A	—	N/A	N/A	N/A	N/A	—	—
	Acute ^(p)	30 <u>11</u>	—	3-8 <u>11</u>	3-8 <u>11</u>	3-8 <u>11</u>	4 <u>11</u>	—	—
	MCL	—	—	—	—	—	—	—	50
Zinc	Chronic ^(p)	200 <u>210^(l)</u>	—	245 <u>210^(l)</u>	245 <u>210^(l)</u>	245 <u>210^(l)</u>	400 <u>210^(l)</u>	—	—
	Acute ^(p)	220 <u>210^(l)</u>	—	245 <u>210^(l)</u>	245 <u>210^(l)</u>	245 <u>210^(l)</u>	440 <u>210^(l)</u>	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	26 ^{*(e)}
	Human Health + — F & W	—	—	—	—	—	—	—	7.4 ^{*(f)}

ITEM 2. Amend subrule 61.3(3), TABLE 1, footnotes (h), (j), (k), and (l), as follows:

(h) Class B(WW-1), B(WW-2), and B(WW-3) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for cadmium are a function of hardness (as CaCO₃ (mg/l)) using the equation for each use according to the following table equations:

	B(WW-1) B(CW1)	B(WW-2) B(WW-1)&B(LW)	B(WW-3) B(WW-2)&B(WW-3)
Acute	$\frac{e^{[1.0166\ln(\text{Hardness}) - 3.924]} (1.136672) - [(\ln \text{ hardness}) \times (0.041838)]^*}{e^{(0.9789 \times \ln(\text{hardness}) - 3.866)}}$	$\frac{e^{[1.0166\ln(\text{Hardness}) - 3.924]} (1.136672) - [(\ln \text{ hardness}) \times (0.041838)]^*}{e^{(0.9789 \times \ln(\text{hardness}) - 3.4210)}}$	$\frac{e^{[1.0166\ln(\text{Hardness}) - 3.924]} (1.136672) - [(\ln \text{ hardness}) \times (0.041838)]^*}{e^{(0.9789 \times \ln(\text{hardness}) - 2.5750)}}$
Chronic	$\frac{e^{[0.7409\ln(\text{Hardness}) - 4.719]} (1.101672) - [(\ln \text{ hardness}) \times (0.041838)]^*}{e^{0.7977 \times \ln(\text{hardness}) - 3.909}}$	$\frac{e^{[0.7409\ln(\text{Hardness}) - 4.719]} (1.101672) - [(\ln \text{ hardness}) \times (0.041838)]^*}{e^{0.7977 \times \ln(\text{hardness}) - 3.909}}$	$\frac{e^{[0.7409\ln(\text{Hardness}) - 4.719]} (1.101672) - [(\ln \text{ hardness}) \times (0.041838)]^*}{e^{0.7977 \times \ln(\text{hardness}) - 3.909}}$

(j) Class B(WW-1), B(WW-2), and B(WW-3) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for lead are a function of hardness (CaCO₃ (mg/l)) using the equation for each use according to the following table equations:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$\frac{(1.46203 - [(\ln \text{ hardness})(0.145712)]) \times}{e^{[1.2731\ln(\text{Hardness}) - 1.46]}}$	$e^{[1.2731\ln(\text{Hardness}) - 1.46]}$	$e^{[1.2731\ln(\text{Hardness}) - 1.46]}$
Chronic	$\frac{(1.46203 - [(\ln \text{ hardness})(0.145712)]) \times}{e^{[1.2731\ln(\text{Hardness}) - 4.705]}}$	$e^{[1.2731\ln(\text{Hardness}) - 4.705]}$	$e^{[1.2731\ln(\text{Hardness}) - 4.705]}$

(k) Class B(WW-1), B(WW-2), and B(WW-3) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for nickel are a function of hardness (CaCO₃ (mg/l)) using the equation for each use according to the following table equations:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$0.998 \times e^{[0.846\ln(\text{Hardness}) + 2.255]}$	$e^{[0.846\ln(\text{Hardness}) + 2.255]}$	$e^{[0.846\ln(\text{Hardness}) + 2.255]}$
Chronic	$0.997 \times e^{[0.846\ln(\text{Hardness}) + 0.0584]}$	$e^{[0.846\ln(\text{Hardness}) + 0.0584]}$	$e^{[0.846\ln(\text{Hardness}) + 0.0584]}$

(l) Class B(WW-1), B(WW-2), and B(WW-3) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for zinc are a function of hardness (CaCO₃ (mg/l)) using the equation for each use according to the following table equations:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$0.978 \times e^{[0.8473\ln(\text{Hardness}) + 0.884]}$	$e^{[0.8473\ln(\text{Hardness}) + 0.884]}$	$e^{[0.8473\ln(\text{Hardness}) + 0.884]}$
Chronic	$0.986 \times e^{[0.8473\ln(\text{Hardness}) + 0.884]}$	$e^{[0.8473\ln(\text{Hardness}) + 0.884]}$	$e^{[0.8473\ln(\text{Hardness}) + 0.884]}$

ITEM 3. Adopt the following new footnotes (o), (p), (q), and (r) in subrule 61.3(3), TABLE 1, Criteria for Chemical Constituents:

(o) The acute and chronic criteria listed in Table 1 are calculated using Aluminum Criteria Calculator V2.0 (Excel) as described in "Final Aquatic Life Ambient Water Quality Criteria for Aluminum 2018 (EPA-822-R-18-001), December 2018." The criteria were calculated using the lowest 10th percentile of individual model outputs using spatially and temporally representative model inputs from across the state.

(p) The criteria are expressed as dissolved concentration.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

- (q) The silver criteria listed in Table 1 are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for silver are a function of hardness (CaCO₃ (mg/l)) using the following equation:
Acute $0.85 \times e^{[1.72 \ln(\text{Hardness}) - 6.59]}$
- (r) The criteria are expressed as the bioavailable fraction.

ARC 5043C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to the licensure, practice, and discipline of physician assistants and providing an opportunity for public comment**

The Iowa Board of Physician Assistants hereby proposes to amend Chapter 326, "Licensure of Physician Assistants," Chapter 327, "Practice of Physician Assistants," and Chapter 329, "Discipline for Physician Assistants," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.76 and 2020 Iowa Acts, Senate File 2357.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 148C.

Purpose and Summary

2020 Iowa Acts, Senate File 2357, signed by Governor Reynolds on March 18, 2020, requires the Board of Physician Assistants to amend, rescind, and adopt rules in substantial compliance with Sections 9 and 10 of the Act. Sections 9 and 10 of the Act instruct the Board to make numerous changes within its licensure, practice, and discipline administrative code chapters. This proposed rule making implements the Act's amendments, rescissions, and adoptions to the Board's rules.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on June 23, 2020. Comments should be directed to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Susan Reynolds
 Professional Licensure Division
 Iowa Department of Public Health
 Lucas State Office Building
 321 East 12th Street
 Des Moines, Iowa 50319
 Email: susan.reynolds@idph.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, 2020
 8 to 8:30 a.m.

Fifth Floor Conference Room 526
 Lucas State Office Building
 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. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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 ~~645—326.1(148C)~~, definitions of "Approved program," "Opioid," "Physician assistant," "Remote medical site" and "Supervising physician," as follows:

"Approved program" means a program for the education of physician assistants which has been accredited by the ~~American Medical Association's Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Education Programs, or by its successor, the Accreditation Review Commission on Education for the Physician Assistant, or its successor, or, if accredited prior to 2001, either by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.~~

"Opioid" means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain or opioid use disorder.

"Physician assistant" or "PA" means a person licensed as a physician assistant by the board.

"Remote medical site" means a medical clinic for ambulatory patients which is more than 30 miles away from the main practice location of a supervising physician and in which a supervising physician is present less than 50 percent of the time the site is open. "Remote medical site" ~~will~~ does not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided, such as a (e.g., diet center, free clinic, site for athletic physicals, or a jail facility).

"Supervising physician" means a physician who supervises the medical services provided by the physician assistant consistent with the physician assistant's education, training, or experience and who accepts ultimate responsibility for the medical care provided by the ~~physician/physician~~ physician-physician assistant team.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 2. Adopt the following **new** definition of “Collaboration” in rule **645—326.1(148C)**:

“*Collaboration*” means consultation with or referral to the appropriate physician or other health care professional by a physician assistant as indicated by the patient’s condition; the education, competencies, and experience of the physician assistant; and the standard of care.

ITEM 3. Amend rule 645—326.6(148C) as follows:

645—326.6(148C) Examination requirements. The applicant for licensure as a physician assistant shall successfully pass the certifying examination ~~for physician assistants~~ conducted by the National Commission on Certification of Physician Assistants or a successor examination approved by the board of physician assistants.

ITEM 4. Amend rule 645—326.15(148C) as follows:

645—326.15(148C,88GA,ch1020) Use of title. A physician assistant licensed under Iowa Code chapter 148C may use the words “physician assistant” after the person’s name or signify the same by the use of the letters “PA.” A person who meets the qualifications for licensure under Iowa Code chapter 148C but does not possess a current license may use the title “PA” or “physician assistant” but may not act or practice as a physician assistant unless licensed under Iowa Code chapter 148C.

ITEM 5. Amend rule 645—326.18(148C) as follows:

645—326.18(148C) Recognition of an approved program. The board shall recognize a program for education and training of physician assistants if it is accredited by ~~the American Medical Association’s Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Educational Programs, or by its successor,~~ the Accreditation Review Commission on Education for the Physician Assistant, or its successor, or, if accredited prior to 2001, either by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Educational Programs.

This rule is intended to implement Iowa Code section 148C.2.

ITEM 6. Amend paragraph **326.19(3)“b”** as follows:

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

- (1) No change.
- (2) Verification of completion of 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed shall be in Category I, or NCCPA or successor agency certification; ~~and,~~
- ~~(3) Information on each supervising physician.~~

ITEM 7. Amend rule 645—327.1(148C) as follows:

645—327.1(148C,88GA,ch1020) Duties. The medical services to be provided by the physician assistant are those for which the physician assistant has been prepared by education, training, or experience and is competent to perform. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills, and abilities necessary to provide those services appropriate to the practice setting. The physician assistant’s services may be utilized in any clinical settings including but not limited to the office, the ambulatory clinic, the hospital, the patient’s home, extended care facilities, and nursing homes. Diagnostic and therapeutic medical tasks for which the supervising physician has sufficient training or experience may be delegated to the physician assistant after a supervising physician determines the physician assistant’s proficiency and competence.

327.1(1) A physician assistant’s duties relating to prescribing, dispensing, ordering, administering, and procuring drugs and medical devices include all of the following:

- a. Administering any drug.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. Prescribing, dispensing, ordering, administering, and procuring drugs and medical devices. A physician assistant may plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions including but not limited to durable medical equipment, nutrition, blood and blood products; and diagnostic support services including but not limited to home health care, hospice, and physical and occupational therapy. The prescribing and dispensing of drugs may include Schedule II through V substances, as described in Iowa Code chapter 124, and all legend drugs.

c. A physician assistant may prescribe drugs and medical devices subject to all of the following conditions:

(1) The physician assistant shall have passed the national certifying examination conducted by the National Commission on the Certification of Physician Assistants or its successor examination approved by the board. Physician assistants with temporary licenses may order drugs and medical devices only with the prior approval and direction of a supervising physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient being seen by the physician assistant.

(2) The physician assistant must comply with appropriate federal and state regulations.

(3) If a physician assistant prescribes or dispenses controlled substances, the physician assistant must register with the federal Drug Enforcement Administration.

(4) The physician assistant may prescribe or order Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124 only with the prior approval and direction of a supervising physician who has sufficient training and experience. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient being seen by the physician assistant.

(5) A physician assistant shall not prescribe substances that the physician assistant's supervising physician does not have the authority to prescribe, except as allowed by paragraph 327.1(2) "n."

(6) The physician assistant may prescribe, supply, and administer drugs and medical devices in all settings, including but not limited to hospitals, health care facilities, health care institutions, clinics, offices, health maintenance organizations, and outpatient and emergency care settings.

(7) A physician assistant may request, receive, and supply sample drugs and medical devices.

(8) The board of physician assistants shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances, and medical devices.

d. Supplying properly packaged and labeled prescription drugs, controlled substances, or medical devices when pharmacist services are not reasonably available or when it is in the best interest of the patient.

(1) If the physician assistant is the prescriber of the medications supplied pursuant to this paragraph, the medications supplied shall be for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician or physician assistant.

(2) A nurse or staff assistant may assist the physician assistant in supplying medications.

~~327.1(1)~~ **327.1(2)** The medical services to be provided by the physician assistant are those delegated by a supervising physician. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including, but not limited to, the office, the ambulatory clinic, the hospital, the patient's home, extended care facilities and nursing homes. Diagnostic and therapeutic medical tasks for which the supervising physician has sufficient training or experience may be delegated to the physician assistant after a supervising physician determines the physician assistant's proficiency and competence. The medical services to be provided by the physician assistant also include, but are not limited to, the following:

a. to q. No change.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- ~~r. — Administer any drug (a single dose).~~
- ~~s. — Prescribe drugs and medical devices under the following conditions:~~
- ~~(1) — The physician assistant shall have passed the national certifying examination conducted by the National Commission on the Certification of Physician Assistants or its successor examination approved by the board. Physician assistants with a temporary license may order drugs and medical devices only with the prior approval and direction of a supervising physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.~~
- ~~(2) — The physician assistant may not prescribe Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124. The physician assistant may order Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124 only with the prior approval and direction of a physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.~~
- ~~(3) — The physician assistant shall inform the board of any limitation on the prescriptive authority of the physician assistant in addition to the limitations set out in 327.1(1) "s"(2).~~
- ~~(4) — A physician assistant shall not prescribe substances that the supervising physician does not have the authority to prescribe except as allowed in 327.1(1) "n."~~
- ~~(5) — The physician assistant may prescribe, supply and administer drugs and medical devices in all settings including, but not limited to, hospitals, health care facilities, health care institutions, clinics, offices, health maintenance organizations, and outpatient and emergency care settings except as limited by 327.1(1) "s"(2).~~
- ~~(6) — A physician assistant who is an authorized prescriber may request, receive, and supply sample drugs and medical devices except as limited by 327.1(1) "s"(2).~~
- ~~(7) — The board of physician assistants shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances and medical devices.~~
- ~~t. — Supply properly packaged and labeled prescription drugs, controlled substances or medical devices when pharmacist services are not reasonably available or when it is in the best interests of the patient as delegated by a supervising physician.~~
- ~~(1) — When the physician assistant is the prescriber of the medications under 327.1(1) "s," these medications shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician or physician assistant.~~
- ~~(2) — When a physician assistant supplies medication on the direct order of a physician, subparagraph (1) does not apply.~~
- ~~(3) — A nurse or staff assistant may assist the physician assistant in supplying medications when prescriptive drug supplying authority is delegated by a supervising physician to the physician assistant under 327.1(1) "s."~~
- ~~u. — When a physician assistant supplies medications as delegated by a supervising physician in a remote site, the physician assistant shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage and appropriate use of prescription drugs, controlled substances, and medical devices.~~
- ~~v. r. — May, at At the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.~~
- ~~w. s. — Direct medical personnel, health professionals, and others involved in caring for patients in and the execution of patient care.~~
- ~~x. t. — May authenticate Authenticate medical forms by signing the form and including a supervising physician's name.~~
- ~~y. u. — Perform other duties appropriate to a physician's physician assistant's practice.~~
- ~~z. v. — Health care providers shall consider the instructions of the a physician assistant to be instructions of a supervising physician if the instructions concern duties delegated to the physician assistant by the supervising physician authoritative.~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~327.1(2)~~ **327.1(3)** Emergency medicine duties.

a. to d. No change.

ITEM 8. Amend rule 645—327.4(148C) as follows:

645—327.4(148C,88GA,ch1020) Remote medical site.

327.4(1) A physician assistant may provide medical services in a remote medical site if ~~one~~ any of the following ~~three~~ conditions is met:

a. The physician assistant has a permanent license and at least one year of practice as a physician assistant; ~~or~~

b. The physician assistant with less than one year of practice has a permanent license and meets all of the following criteria:

(1) The physician assistant has practiced as a physician assistant for at least six months; ~~and~~

(2) The physician assistant and supervising physician have worked together at the same location for a period of at least three months; ~~and~~

(3) The supervising physician reviews patient care provided by the physician assistant ~~at least weekly as determined to be appropriate by the supervising physician;~~ and

(4) The supervising physician ~~signs all reviews a representative sample of~~ reviews a representative sample of patient charts unless the medical record documents that direct consultation with the supervising physician occurred for a period the supervising physician determines is appropriate; ~~or~~

c. The physician assistant and supervising physician provide a written statement sent directly to the board that the physician assistant is qualified to provide the needed medical services and that the medical care will be unavailable at the remote site unless the physician assistant is allowed to practice there. In addition, for three months, the supervising physician must review ~~patient care provided by the physician assistant at least weekly and must sign all~~ a representative sample of patient charts ~~unless the medical record documents that direct consultation with the supervising physician occurred for patient care provided by the physician assistant at least weekly.~~

327.4(2) The supervising physician must visit a remote site or communicate with the physician assistant at the remote site via electronic communications to provide additional medical direction, medical services, and consultation at least every two weeks. For the purposes of this rule, communication may consist of, but shall not be limited to, in-person meetings, two-way interactive communication directly between the supervising physician and the physician assistant via the telephone, secure messaging, electronic mail, or chart review. ~~At least one supervising physician must meet in person with the physician assistant at the remote medical site at least once every six months to evaluate and discuss the medical facilities, resources, and medical services provided at the remote medical site.~~

ITEM 9. Amend rule 645—327.5(147) as follows:

645—327.5(147,88GA,ch1020) Identification as a physician assistant. The physician assistant shall be identified as a physician assistant to patients and to the public, regardless of the physician assistant's educational degree.

ITEM 10. Amend subrule 327.6(2) as follows:

327.6(2) Each oral prescription drug order issued by a physician assistant shall include the same information required for a written prescription, except for the written signature of the physician assistant and the physician assistant's practice address of the practitioners.

ITEM 11. Amend subrule 329.2(25) as follows:

329.2(25) Representing oneself as a physician assistant when one's license has been suspended or revoked, or when one's license is on inactive status, except as provided by rule 645—326.15(148C).

ARC 5045C

INSURANCE DIVISION[191]

Adopted and Filed

Rule making related to best interest standard for insurance securities and professionals

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

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 507B.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 507B.4A.

Purpose and Summary

This rule making requires annuity agents to act in the best interest of their customers. This rule making follows efforts by the National Association of Insurance Commissioners (NAIC) to develop a model Suitability in Annuity Transactions Model Regulation that is harmonized with rule making by the U.S. Securities and Exchange Commission (SEC). Iowans choose professional financial services either through fee arrangements or through transactional commission arrangements based on their particular needs. Requiring high-quality financial advice that fits the particular needs, objectives and situation of the individual Iowan has always been the Division’s primary purpose.

This rule making preserves consumer choice so that many more middle-class Iowans will retain access to retirement education and security that they choose. The detailed regulatory framework promotes informing consumers about risks, benefits and costs of any recommended transaction.

This standard requires the annuity agent to only make recommendations that match the particular Iowan’s needs, objectives and situation without placing the producer’s or the insurer’s financial interest ahead of the consumer’s interest. This rule making is consistent with the efforts of the SEC and will be very beneficial to consumers.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 25, 2020, as **ARC 4998C**. A public hearing was held on April 28, 2020, at 10 a.m. via conference call. More than 40 people attended via phone or computer. Several individuals provided brief comments at the hearing summarizing their written comments.

The Division received 16 written comment letters. Several comment letters requested guidance regarding the sales contest drafting note included in the NAIC model regulation. As the Division stated during the hearing, the Division has the ability to issue bulletins as necessary to provide additional guidance regarding any insurance regulation. Some comment letters expressed support for the insurance portion of the rule making.

Several comment letters raised a concern with proceeding with the securities portion of the rule making, given the current COVID-19 health pandemic affecting business operations. In response to these comments, the Division has decided to postpone the securities portion of the rule making and anticipates publishing a new Notice of Intended Action related to the securities portion of the rule making this summer. Item 9 from the Notice has not been adopted.

The Division made no changes to the insurance portion of the rule making.

INSURANCE DIVISION[191](cont'd)

Adoption of Rule Making

This rule making was adopted by Douglas M. Ommen, Iowa Insurance Commissioner, on May 11, 2020.

Fiscal Impact

The fiscal impact cannot be determined.

These amendments are necessary to coordinate Iowa law with federal law in the wake of the Securities and Exchange Commission-implemented Regulation Best Interest. These amendments materially increase the Division's regulatory responsibilities by adding a new state level best interest obligation to the existing suitability standards. Expenditure of Division resources will increase in order to ensure compliance with the rules. The resources available for these purposes are unclear, as is the extent of a future examination program that focuses on the new obligations. There will be no increase in revenues as a result of this rule making.

Overall, the existing Division rules have compliance costs for industry participants. The Division expects these amendments to have additional implementation costs as firms update their internal systems to comply with the new requirements. The extent and materiality of these one-time costs are indeterminate. The costs will be somewhat mitigated in that the insurance rule provides a safe harbor for financial professionals who comply with comparable federal standards. Coordinating with federal duties would add no additional burdens in order to comply with the best interest standard. This rule making requires insurers to have a supervision system and to provide training. Neither of these are new requirements, but the rule making could result in the industry's having to expend resources to refine or update its supervision system and training programs. Those costs are indeterminate. Moreover, the ongoing costs of complying with this rule making, after the one-time implementation costs, are uncertain as well.

Overall, while the rule making may result in a fiscal impact to the industry, there is an overall benefit in that the Division rules coordinate with federal standards.

Purchasers of annuities should benefit from this rule making due to enhanced standards of care placed on licensed industry professionals. It is not possible to quantify the impact in any given transaction, but overall the expectation is that purchasers/investors will end up with products that better fit their needs.

Jobs Impact

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

Waivers

The Division's general rules regarding waivers apply.

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 8, 2020.

The following rule-making actions are adopted:

INSURANCE DIVISION[191](cont'd)

ITEM 1. Amend rule 191—15.72(507B) as follows:

191—15.72(507B) Purpose. The purpose of these rules is to require producers, as defined in rule 191—15.74(507B), to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the times of the transactions are appropriately effectively addressed. Nothing herein shall be construed to create or imply a private cause of action for a violation of these rules or to subject a producer to civil liability under the best interest standard of care outlined in rule 191—15.75(507B) or under standards governing the conduct of a fiduciary or a fiduciary relationship.

ITEM 2. Amend rule 191—15.73(507B) as follows:

191—15.73(507B) Applicability and scope.

15.73(1) These rules shall apply to any sale or recommendation to purchase, exchange or replace of an annuity made to a consumer on or after January 1, 2011, by an insurance producer, or by an insurer where no producer is involved, that results in the purchase, exchange or replacement recommended 2021.

15.73(2) Unless otherwise specifically included, ~~this rule shall~~ these rules do not apply to transactions involving:

a. Direct-response solicitations where there is no recommendation based on information collected from the consumer pursuant to these rules;

b. Contracts used to fund the following:

(1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(2) A plan described by Section 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC) if established or maintained by an employer;

(3) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC; or

(4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(5) c. Settlements or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(6) d. Formal prepaid funeral contracts.

ITEM 3. Amend rule 191—15.74(507B) as follows:

191—15.74(507B) Definitions. For purposes of this division:

“Annuity” means an annuity that is an insurance product under state law, individually solicited, whether the product is classified as an individual or group annuity.

“Cash compensation” means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

“Consumer profile information” means information that is reasonably appropriate to determine whether a recommendation addresses the consumer’s financial situation, insurance needs and financial objectives, including, at a minimum, the following:

1. Age;

2. Annual income;

3. Financial situation and needs, including debts and other obligations;

4. Financial experience;

5. Insurance needs;

6. Financial objectives;

7. Intended use of the annuity;

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8. Financial time horizon;
9. Existing assets or financial products, including investment, annuity and insurance holdings;
10. Liquidity needs;
11. Liquid net worth;
12. Risk tolerance, including, but not limited to, willingness to accept nonguaranteed elements in the annuity;
13. Financial resources used to fund the annuity; and
14. Tax status.

“Continuing education credit” or “CE credit” means one credit as defined in rule 191—11.2(505,522B).

“Continuing education provider” or “CE provider” means a CE provider as defined in rule 191—11.2(505,522B).

“FINRA” means the Financial Industry Regulatory Authority or a succeeding agency.

“Insurance producer” means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.

“Insurer” means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

“Intermediary” means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer’s annuities by producers.

“Material conflict of interest” means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. “Material conflict of interest” does not include cash compensation or noncash compensation.

“Noncash compensation” means any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support and retirement benefits.

“Nonguaranteed elements” means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

“Producer” means a person or entity required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. For purposes of these rules, “producer” includes an insurer where no producer is involved.

“Recommendation” means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results was intended to result or does result in a purchase, an exchange or a replacement of an annuity in accordance with that advice. Recommendation does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

“Replacement” means a transaction in which a new policy or contract annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no whether or not a producer is involved, that, by reason of the transaction, an existing annuity or other insurance policy or contract has been or is to be any of the following:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;
2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
4. Reissued with any reduction in cash value; or
5. Used in a financed purchase.

“Suitability information” means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:

1. Age;

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2. ~~Annual income;~~
3. ~~Financial situation and needs, including the financial resources used for the funding of the annuity;~~
4. ~~Financial experience;~~
5. ~~Financial objectives;~~
6. ~~Intended use of the annuity;~~
7. ~~Financial time horizon;~~
8. ~~Existing assets, including investment and life insurance holdings;~~
9. ~~Liquidity needs;~~
10. ~~Liquid net worth;~~
11. ~~Risk tolerance; and~~
12. ~~Tax status.~~

"SEC" means the United States Securities and Exchange Commission.

ITEM 4. Amend rule 191—15.75(507B) as follows:

191—15.75(507B) Duties of insurers and of insurance producers.

15.75(1) *Best interest obligations.* In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer's investments and other insurance products and as to the consumer's financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following: A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest. A producer has acted in the best interest of the consumer if the producer has satisfied the following obligations regarding care, disclosure, conflict of interest and documentation:

a. *Care obligation.* The

(1) The producer, in making a recommendation shall exercise reasonable diligence, care and skill to:

1. Know the consumer's financial situation, insurance needs and financial objectives;

2. Understand the available recommendation options after making a reasonable inquiry into options available to the producer;

3. Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and

4. Communicate the basis or bases of the recommendation.

(2) The requirements under subparagraph 15.75(1)"a"(1) include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

(3) The requirements under subparagraph 15.75(1)"a"(1) require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.

(4) The requirements under this subrule do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in these rules.

(5) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs and financial objectives, but the level of importance of each factor under the care obligation of this paragraph may vary depending

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on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

(6) The requirements under subparagraph 15.75(1)“a”(1) include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance-related features.

(7) The requirements under subparagraph 15.75(1)“a”(1) apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

(8) The requirements under subparagraph 15.75(1)“a”(1) do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

(9) The requirements under subparagraph 15.75(1)“a”(1) do not mean the producer has ongoing monitoring obligations under the care obligation under this paragraph, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising or financial planning agreement between the consumer and the producer.

(10) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

1. The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, such as death, living or other contractual benefits, or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;

2. The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

3. The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

(11) Nothing in this regulation should be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this regulation; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

b. Disclosure obligation.

(1) Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a form substantially similar to Appendix VI:

1. A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

2. An affirmative statement on whether the producer is licensed and authorized to sell the following products:

- Fixed annuities;
- Fixed indexed annuities;
- Variable annuities;
- Life insurance;
- Mutual funds;
- Stocks and bonds; and
- Certificates of deposit;

3. An affirmative statement describing the insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for, using the following descriptions:

- One insurer;
- From two or more insurers; or
- From two or more insurers although primarily contracted with one insurer.

4. A description of the sources and types of cash compensation and noncash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary or other producer or by fee as a result of a contract for advice or consulting services; and

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5. A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph 15.75(1) "b"(2);

(2) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

1. A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

2. Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages; and

(3) Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been reasonably informed of various features of the recommended annuity, such as: the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; mortality and expense fees; investment advisory fees; any annual fees; potential charges for and features of riders or other options of the annuity; limitations on interest returns; potential changes in nonguaranteed elements of the annuity; insurance and investment components; and market risk;

b. The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, death benefit, or living benefit;

c. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on the consumer's suitability information; and

d. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable, including taking into consideration whether:

(1) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death benefit, living benefit, or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;

(2) The consumer would benefit from product enhancements and improvements; and

(3) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months.

c. Conflict of interest obligation. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

d. Documentation obligation. A producer shall at the time of recommendation or sale:

(1) Make a written record of any recommendation and the basis for the recommendation subject to this regulation;

(2) Obtain a consumer-signed statement on a form substantially similar to Appendix VII documenting:

1. A customer's refusal to provide the consumer profile information, if any; and

2. A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information; and

(3) Obtain a consumer-signed statement on a form substantially similar to Appendix VIII acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

e. Application of the best interest obligation. Any requirement applicable to a producer under this subrule shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

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~~15.75(2)~~ Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.

~~15.75(3)~~ Except as permitted under subrule 15.75(4), an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

~~15.75(4)~~ 15.75(2) Exceptions. Transactions not based on a recommendation.

~~a.~~ Except as provided under paragraph 15.75(4) "b," neither an insurance 15.75(2) "b," a producer, nor an insurer, shall have any obligation to a consumer under subrule 15.75(1) or 15.75(3) paragraph 15.75(1) "a" related to any annuity transaction if:

- (1) No recommendation is made;
- (2) A recommendation was made and was later found to have been prepared based on inaccurate material information provided by the consumer;
- (3) A consumer refuses to provide relevant suitability consumer profile information and the annuity transaction is not recommended; or
- (4) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

~~b.~~ An insurer's issuance of an annuity subject to paragraph 15.75(4) "a" 15.75(2) "a" shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

~~15.75(5)~~ An insurance producer or, where no insurance producer is involved, the responsible insurer representative, shall at the time of sale:

- ~~a.~~ Make a record of any recommendation subject to subrule 15.75(1);
- ~~b.~~ Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and
- ~~c.~~ Obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation.

~~15.75(6)~~ 15.75(3) An insurer's duty to supervise. Supervision system.

~~a.~~ Except as permitted under subrule 15.75(2), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives based on the consumer's consumer profile information.

~~a. b.~~ An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its ~~insurance~~ producers' compliance with rules 191—15.72(507B) through 191—15.78(507B) including, but not limited to, the following:

- (1) The insurer shall establish and maintain reasonable procedures to inform its ~~insurance~~ producers of the requirements of these rules and shall incorporate the requirements of these rules into relevant ~~insurance~~ producer training manuals;
- (2) The insurer shall establish and maintain standards for ~~insurance~~ producer product training and shall establish and maintain reasonable procedures to require its ~~insurance~~ producers to comply with the requirements of rule 191—15.76(507B);
- (3) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its ~~insurance~~ producers;
- (4) The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure ~~that~~ there is a reasonable basis to determine that a recommendation is suitable the recommended annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

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(5) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not ~~suitable~~ in compliance with subrules 15.75(1), 15.75(2), 15.75(4) and 15.75(5). These procedures may include, but are not limited to, confirmation of ~~consumer suitability~~ the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations, and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures or by confirming ~~suitability~~ the consumer profile information or other required information under this rule after issuance or delivery of the annuity; and

(6) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this rule;

(7) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(8) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and

(6) (9) The insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

~~b. c.~~ Third-party supervisor.

(1) Nothing in this subrule restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under ~~paragraph 15.75(6) "a."~~ this subrule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to rule 191—15.73(507B) 191—15.77(507B) regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph 15.75(6) "b"(2) 15.75(3) "c"(2).

(2) An insurer's supervision system under ~~paragraph 15.75(6) "a"~~ this subrule shall include supervision of contractual performance under this subrule including, but not limited to, the following:

1. Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

2. Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

~~e. d.~~ An insurer is not required to include in its system of supervision an insurance;

(1) A producer's recommendations to consumers of products other than the annuities offered by the insurer; or

(2) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

~~15.75(7) 15.75(4) Prohibited practices. An insurance producer shall not~~ Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from:

a. Truthfully responding to an insurer's request for confirmation of ~~suitability~~ the consumer profile information;

b. Filing a complaint; or

c. Cooperating with the investigation of a complaint.

~~15.75(8) 15.75(5) Compliance with FINRA. Safe harbor.~~

a. Sales Recommendations and sales of annuities made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions comparable standards shall satisfy the requirements under these rules. This subrule applies to ~~FINRA member broker-dealer sales of variable~~

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~~annuities and fixed annuities if the suitability and supervision are similar to those applied to variable annuity sales~~ all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subrule shall limit the insurance commissioner's ability to investigate and enforce ~~(including investigate)~~ the provisions of ~~this regulation~~ these rules.

b. Nothing in paragraph 15.75(5) "a" shall limit the insurer's obligation to comply with paragraph 15.75(3) "a," although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

~~b. c.~~ For paragraph ~~15.75(8) "a"~~ 15.75(5) "a" to apply, an insurer shall:

(1) Monitor the ~~FINRA member broker-dealer~~ relevant conduct of the financial professional seeking to rely on paragraph 15.75(5) "a" or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal securities laws using information collected in the normal course of an insurer's business; and

(2) Provide to the ~~FINRA member broker-dealer~~ entity responsible for supervising the financial professional seeking to rely on paragraph 15.75(5) "a," such as the financial professional's broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist the ~~FINRA member broker-dealer~~ such entity to maintain its supervision system.

d. For purposes of this subrule, "financial professional" means a producer that is regulated and acting as:

(1) A broker-dealer registered under federal securities laws or a registered representative of a broker-dealer;

(2) An investment adviser registered under federal securities laws or an investment adviser representative associated with the federal registered investment adviser; or

(3) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.

e. For purposes of this subrule, "comparable standards" means:

(1) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, Regulation Best Interest and any amendments or successor regulations thereto;

(2) With respect to investment advisers registered under federal securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940, including, but not limited to, the Form ADV and interpretations; and

(3) With respect to plan fiduciaries or fiduciaries, means the duties, obligations, prohibitions and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

ITEM 5. Amend rule 191—15.76(507B) as follows:

191—15.76(507B) ~~Insurance producer~~ Producer training.

15.76(1) ~~An insurance A~~ A producer shall not solicit the sale of an annuity product unless the ~~insurance~~ insurance producer has adequate knowledge of the product to recommend the annuity and the ~~insurance~~ insurance producer is in compliance with the insurer's standards for product training. ~~An insurance A~~ A producer may rely on insurer-provided product-specific training standards and materials to comply with this subrule.

15.76(2) Training required.

a. One-time course.

(1) ~~An insurance A~~ A producer who engages in the sale of annuity products shall complete a one-time four-credit training course approved by the ~~Iowa insurance division~~ commissioner and provided by an education provider approved by the ~~insurance division~~ commissioner.

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(2) ~~Insurance producers~~ Producers may not engage in the sale of annuities until the annuity training course required under this rule has been completed.

b. The minimum length of the training required under this rule shall be sufficient to qualify for at least four CE credits, but may be longer.

c. The training required under this rule shall include information on the following topics:

(1) The types of annuities and various classifications of annuities;

(2) Identification of the parties to an annuity;

(3) How fixed, variable, ~~and indexed,~~ and other product-specific annuity contract provisions affect consumers;

(4) The application of income taxation of qualified and nonqualified annuities;

(5) The primary uses of annuities;

(6) Appropriate standard of conduct sales practices; and

(7) Replacement and disclosure requirements.

d. Providers of courses intended to comply with this rule shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

e. A provider of an annuity training course intended to comply with this rule shall register as a CE provider in this state and comply with the rules and guidelines applicable to ~~insurance~~ producer continuing education courses as set forth in 191—Chapter 11.

f. A producer who has completed an annuity training course approved by the commissioner prior to January 1, 2021, shall, before July 1, 2021, complete either:

(1) A new four-credit training course approved by the commissioner after January 1, 2021; or

(2) An additional one-time one-credit training course approved by the commissioner and provided by the commissioner-approved education provider on appropriate sales practices, replacement and disclosure requirements under this amended regulation.

~~f. g.~~ Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with 191—Chapter 11.

~~g. h.~~ Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with 191—Chapter 11.

~~h. i.~~ Satisfaction of the training requirements of another state that are substantially similar to the provisions of this subrule shall be deemed to satisfy the training requirements of this subrule in this state.

j. The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this subrule shall be deemed to satisfy the training requirements of this subrule in this state.

~~i. k.~~ An insurer shall verify that ~~an insurance~~ a producer has completed the annuity training course required under this subrule before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subrule by obtaining certificates of completion of the training course or obtaining reports provided by Iowa insurance commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved continuing education providers.

ITEM 6. Amend rule 191—15.77(507B) as follows:

191—15.77(507B) Compliance; mitigation; penalties; enforcement.

15.77(1) An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its ~~insurance~~ producer, the commissioner may order:

a. An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with these rules by the insurer's insurer, an entity contracted to perform the insurer's supervisory duties, or by its insurance producer's, violation of the rules of this division the producer;

b. A general agency, independent agency or the ~~insurance~~ producer to take reasonably appropriate corrective action for any consumer harmed by the ~~insurance~~ producer's violation of the rules of this division; and

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c. Appropriate penalties and sanctions.

15.77(2) Any applicable penalty under Iowa Code chapter 507B for a violation of the rules in Division V of this chapter may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

15.77(3) The authority to enforce compliance with these rules is vested exclusively with the commissioner.

ITEM 7. Amend rule 191—15.78(507B) as follows:

191—15.78(507B) Record keeping.

15.78(1) Insurers, general agents, independent agencies, and insurance producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer, disclosures made to the consumer (including summaries of oral disclosures) and other information used in making the recommendations that were the basis for insurance transactions for ten years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

15.78(2) Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

ITEM 8. Adopt the following new appendices in 191—Chapter 15, Appendices VI, VII, and VIII, as follows:

APPENDIX VI

INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES

Do Not Sign Unless You Have Read and Understand the Information in this Form

Date: _____

INSURANCE AGENT (PRODUCER) INFORMATION (“Me”, “I”, “My”)

First Name: _____ Last Name: _____

Business/Agency Name: _____ Website: _____

Business Mailing Address: _____

Business Telephone Number: _____

Email Address: _____

National Producer Number in [state]: _____

CUSTOMER INFORMATION (“You”, “Your”)

First Name: _____ Last Name: _____

What Types of Products Can I Sell You?

I am licensed to sell annuities to you in accordance with state law. If I recommend that You buy an annuity, it means I believe that it effectively meets Your financial situation, insurance needs, and financial objectives. Other financial products, such as life insurance or stocks, bonds and mutual funds, also may meet Your needs.

I offer the following products:

- Fixed or Fixed Indexed Annuities
Variable Annuities
Life Insurance

I need a separate license to provide advice about or to sell non-insurance financial products. I have checked below any non-insurance financial products that I am licensed and authorized to provide advice about or to sell.

- Mutual Funds
Stocks/Bonds

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Certificates of Deposits

Whose Annuities Can I Sell to You?

I am authorized to sell:

Annuities from Only One (1) Insurer

Annuities from Two or More Insurers

Annuities from Two or More Insurers although I primarily sell annuities from:

How I'm Paid for My Work:

It's important for You to understand how I'm paid for my work. Depending on the particular annuity You purchase, I may be paid a commission or a fee. Commissions are generally paid to Me by the insurance company while fees are generally paid to Me by the consumer. If You have questions about how I'm paid, please ask Me.

Depending on the particular annuity You buy, I will or may be paid cash compensation as follows:

Commission, which is usually paid by the insurance company or other sources. If other sources, describe: _____.

Fees (such as a fixed amount, an hourly rate, or a percentage of your payment), which are usually paid directly by the customer.

Other (Describe): _____.

If you have questions about the above compensation I will be paid for this transaction, please ask me.

I may also receive other indirect compensation resulting from this transaction (sometimes called "noncash" compensation), such as health or retirement benefits, office rent and support, or other incentives from the insurance company or other sources.

***Drafting Note:** This disclosure may be adapted to fit the particular business model of the producer. As an example, if the producer only receives commission or only receives a fee from the consumer, the disclosure may be refined to fit that particular situation. This form is intended to provide an example of how to communicate producer compensation, but compliance with the regulation may also be achieved with more precise disclosure, including a written consulting, advising or financial planning agreement.*

***Drafting Note:** The acknowledgment and signature should be in immediate proximity to the disclosure language.*

By signing below, you acknowledge that you have read and understand the information provided to you in this document.

Customer Signature

Date

Agent (Producer) Signature

Date

APPENDIX VII

CONSUMER REFUSAL TO PROVIDE INFORMATION

Do Not Sign Unless You Have Read and Understand the Information in this Form

Why are you being given this form?

You're buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company needs information about you, your financial situation, insurance needs and financial objectives.

INSURANCE DIVISION[191](cont'd)

If you sign this form, it means you have not given the agent, broker, or company some or all the information needed to decide if the annuity effectively meets your needs, objectives and situation. You may lose protections under the Insurance Code of [this state] if you sign this form or provide inaccurate information.

Statement of Purchaser:

- I REFUSE to provide this information at this time.
- I have chosen to provide LIMITED information at this time.

Customer Signature

Date

APPENDIX VIII

Consumer Decision to Purchase an Annuity NOT Based on a Recommendation

Do Not Sign This Form Unless You Have Read and Understand It.

Why are you being given this form?

You are buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company has the responsibility to learn about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you know that you’re buying an annuity that was not recommended.

Statement of Purchaser:

I understand that I am buying an annuity, but the agent, broker or company did not recommend that I buy it. If I buy it **without a recommendation**, I understand I may lose protections under the Insurance Code of [this state].

Customer Signature

Date

Agent/Producer Signature

Date

[Filed 5/11/20, effective 7/8/20]

[Published 6/3/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/20.

ARC 5046C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to an update of contact information

The Department of Transportation hereby amends Chapter 410, “Special Mobile Equipment,” Iowa Administrative Code.

TRANSPORTATION DEPARTMENT[761](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.1.

Purpose and Summary

The amendment makes technical changes to update the bureau's name and contact information.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 26, 2020, as **ARC 4939C**. 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, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 8, 2020.

The following rule-making action is adopted:

Amend subrule 410.1(3) as follows:

410.1(3) Questions regarding special mobile equipment may be directed by mail to the ~~Office of~~ Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; ~~or~~ by telephone at ~~(515)237-3264~~ (515)237-3268; or by email at omcs@iowadot.us.

[Filed 5/13/20, effective 7/8/20]

[Published 6/3/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/20.

ARC 5047C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to motor carriers**

The Department of Transportation hereby amends Chapter 524, “For-Hire Intrastate Motor Carrier Authority,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 325A.7A and 325A.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 325A.

Purpose and Summary

This rule making aligns with existing legal authority and Department practice, eliminates outdated or irrelevant requirements or options, and accommodates modern electronic procedures and terminology.

The amendments make technical changes to the rules to clearly identify that the credential being issued is a motor carrier permit or certificate. Also, the amendments simplify the application and supporting documentation required for a motor carrier permit or certificate and still allow for those documents to be sent to the Department electronically.

This rule making amends the rules related to changes after a motor carrier permit has been issued to provide that a permit number could be included in the basis for requesting a duplicate permit and to align with current Department practice of requiring a motor carrier to submit an updated application when the motor carrier’s name or address changes.

The amendments remove the requirement that a bill of lading or freight receipt be issued in triplicate because that practice is no longer necessary.

The amendments comply with current Department practice and provide that a peace officer may inspect the bill of lading or freight receipt, which is consistent with a peace officer’s authority to inspect the motor carrier permit or certificate under Chapter 524.

Finally, this rule making amends the rules encompassing motor carrier tariffs to remove the outdated requirement of issuing adoption notices and participation notices, which are no longer used. The amendments also simplify the process of indicating tariff changes by allowing for a summary of the changes to be provided, rather than requiring use of a specific symbol to denote the changes. Also, a motor carrier is given the flexibility of utilizing forms other than the forms prescribed by the Department for an application for special permission to establish rules of the tariff and for the motor carrier to grant powers of attorney to an agent.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 25, 2020, as **ARC 4994C**. No public comments were received. However, the Department is making additional changes within Item 9, specifically to subrule 524.13(2), to further explain the requirements of motor carriers to retain a copy of the bill of lading or freight receipt by electronic or paper means.

Adoption of Rule Making

This rule making was adopted by the Department on May 12, 2020.

TRANSPORTATION DEPARTMENT[761](cont'd)

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—524.2(325A) as follows:

761—524.2(325A) General information.

524.2(1) Information and location. Applications, forms and information on motor carrier permits and motor carrier certificates are available by mail from the ~~Office of~~ Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; by facsimile at (515)237-3225; or by email at omcs@iowadot.us.

524.2(2) No change.

524.2(3) Complaints. Complaints against motor carriers pertaining to the provisions of this chapter shall be submitted in writing to the ~~office of~~ vehicle and motor carrier services bureau.

ITEM 2. Amend rule 761—524.3(325A) as follows:

761—524.3(325A) Applications and supporting documents.

524.3(1) Application. An application for a motor carrier permit or motor carrier certificate shall be made to the ~~office of~~ vehicle and motor carrier services ~~on a bureau~~ in the form and manner prescribed for that purpose and furnished upon request by the department. ~~The department may require application forms and supporting documentation to be submitted electronically.~~

524.3(2) No change.

524.3(3) Supporting documents. An application for a motor carrier permit or motor carrier certificate must be accompanied by the following supporting documentation in the form and manner prescribed by the department:

a. to e. No change.

ITEM 3. Amend rule 761—524.4(325A) as follows:

761—524.4(325A) Issuance of credentials motor carrier permit or motor carrier certificate. When all requirements are met, the department shall issue the motor carrier permit or certificate. The motor carrier shall make a copy of the permit or certificate and carry it in each motor vehicle at all times. The

TRANSPORTATION DEPARTMENT[761](cont'd)

copy may be in either a physical or an electronic format as prescribed by the department. The permit or certificate shall be available for display to any peace officer upon request.

ITEM 4. Amend rule 761—524.5(325A) as follows:

761—524.5(325A) Duplicate motor carrier permit or motor carrier certificate. Written requests for a duplicate motor carrier permit or motor carrier certificate shall be sent to the ~~office of~~ vehicle and motor carrier services bureau. Requests shall include the carrier name, ~~and the carrier permit number,~~ certificate number, or U.S. DOT number. Any motor carrier in good standing shall be issued a duplicate document upon payment of the required fee.

ITEM 5. Amend rule 761—524.6(325A) as follows:

761—524.6(325A) Amendment to a motor carrier permit or motor carrier certificate.

524.6(1) Update to a motor carrier permit. To change the commodities being transported under a permit, an updated application must be submitted to the ~~office of~~ vehicle and motor carrier services bureau. The updated application shall include the permit number and the required fee for a duplicate permit. Transporting of commodities not listed on the permit shall not commence until a new permit or temporary permit has been issued and is carried in the vehicle.

524.6(2) Change of name or address for a motor carrier permit or certificate. ~~Notification of a name or address change~~ To change the name or address, an updated application shall be sent to the ~~office of~~ vehicle and motor carrier services bureau within 30 days after the change. ~~Notification~~ The updated application shall include the permit or certificate number, old name or address, new name or address, and the required fee.

ITEM 6. Amend subrule 524.7(2) as follows:

524.7(2) Self-insurance. In lieu of maintaining the above insurance, intrastate carriers that also operate interstate and have been approved by a federal agency to self-insure may apply to the department to self-insure by submitting a written request to the ~~office of~~ vehicle and motor carrier services bureau. The written request shall include a copy of the federal agency's approval. The department shall allow self-insurance as long as a federal agency has approved the carrier to self-insure and the motor carrier provides the department with copies of any information required by that federal agency. The department must be notified immediately by the motor carrier if there is any change in the status of the self-insurance for interstate operation.

ITEM 7. Amend rule 761—524.8(325A) as follows:

761—524.8(325A) Self-insurance for motor carriers of passengers.

524.8(1) Applications for self-insurance. A motor carrier of passengers with more than 25 motor vehicles may request self-insurance by submitting a written request to the ~~office of~~ vehicle and motor carrier services bureau. The written request shall include a copy of the most recent audited financial statement and a vehicle list.

524.8(2) Review by the department. The department may request additional information. The department shall deny the request to self-insure or suspend existing approval if the motor carrier fails to meet the self-insurance standard. Approval of self-insurance is continuous. However, the motor carrier shall annually file audited financial statements with the ~~office of~~ vehicle and motor carrier services bureau within 60 days after the end of the motor carrier's fiscal year.

524.8(3) No change.

ITEM 8. Amend rule 761—524.11(325A) as follows:

761—524.11(325A) Safety education seminar.

524.11(1) No change.

524.11(2) Availability. The department shall provide an approved safety education seminar periodically. Information on the seminar schedule is available by mail from the ~~Office of~~ Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines,

TRANSPORTATION DEPARTMENT[761](cont'd)

Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or by telephone at (515)237-3268; or by email at omcs@iowadot.us.

524.11(3) *Third-party safety education seminar approval.* ~~The office of motor~~ Motor vehicle enforcement shall approve the course curriculum before approving individuals outside the department to conduct safety education seminars. The course curriculum shall be submitted for approval to ~~the office of~~ motor vehicle enforcement. At a minimum, the safety course curriculum shall include the following information:

a. to f. No change.

524.11(4) *Exemption.* Passenger carriers with vehicles not meeting the definition of a commercial vehicle as defined in Iowa Code section 321.1 are exempt from attending the safety education seminar and paying the seminar fee. A motor carrier certificate issued for such a carrier contains the statement: "limited to noncommercial vehicles only." If a motor carrier wishes to start operating vehicles that meet the definition of a commercial motor vehicle, the motor carrier must update its authority with the ~~office of~~ vehicle and motor carrier services bureau. A motor carrier must pay the seminar fee and attend the seminar within six months of updating the certificate. A new motor carrier certificate removing the limitation would then be issued.

ITEM 9. Amend rule 761—524.13(325A) as follows:

761—524.13(325A) Bills of lading or freight receipts.

524.13(1) *Requirements.* Every motor carrier operating under a motor carrier permit, except for those motor carriers transporting unprocessed agricultural and horticultural products and livestock, shall issue a bill of lading or receipt ~~in triplicate~~ on the date freight is received for shipment. The bill of lading or receipt shall show the following:

a. to h. No change.

524.13(2) *Retention.* There shall be one copy of the bill of lading or receipt for the consignor, one for the consignee and one to be kept by the motor carrier. The copy may be either paper or electronic except that a bill of lading or receipt of freight consisting of hazardous materials must be a paper copy as required in accordance with 49 CFR Part 172. ~~The motor carrier's copy~~ carrier shall be carried carry a copy of the bill of lading or receipt with the cargo and shall show the total of all charges made for the movement of freight. The motor carrier shall keep the bill of lading or receipt for a period of not less than one year. At any reasonable time, the bill of lading or receipt is subject to inspection by the department's representatives and any peace officer.

ITEM 10. Amend rule 761—524.15(325A) as follows:

761—524.15(325A) Tariffs.

524.15(1) *Requirements.* All motor carriers of household goods shall maintain on file with the ~~office of~~ vehicle and motor carrier services bureau a tariff stating the rates and charges that apply for the services performed under the permit.

524.15(2) No change.

524.15(3) *Filing date.* All changes to tariffs and supplements must be filed with the ~~office of~~ vehicle and motor carrier services bureau at least seven days prior to the effective date. Tariffs, ~~or~~ supplements ~~or adoption notices~~ issued in connection with applications for motor carriers of household goods may become effective on the date the permits are issued.

524.15(4) *Copy to department.* To file a tariff with the ~~office of~~ vehicle and motor carrier services bureau, motor carriers of household goods or their agents shall submit a transmittal letter listing all the enclosed tariffs and include one copy of each tariff, supplement or revised page.

524.15(5) to 524.15(7) No change.

524.15(8) *Tariff changes.* All rates and charges which have been filed with the ~~office of~~ vehicle and motor carrier services bureau must be allowed to become effective and remain in effect for a period of at least seven days before being changed, canceled or withdrawn. All tariffs, supplements and revised

TRANSPORTATION DEPARTMENT[761](cont'd)

pages shall indicate changes from the ~~preceding issue~~ previous tariff. Changes may be indicated by providing a summary or by use of the following symbols:

(R) to denote reductions

(A) to denote increases

(C) to denote changes, the result of which is neither an increase nor a reduction.

~~The proper symbol must be shown directly in connection with each change.~~

524.15(9) No change.

524.15(10) *Application for special permission.* Motor carriers of household goods and agents when making application for permission to establish rates, charges, or rules of the tariff on less than the statutory seven days' notice shall use the form prescribed by the ~~office of vehicle and motor carrier services~~ department or other form containing all of the required information.

524.15(11) Powers of attorney ~~and participation notices.~~

a. Whenever a motor carrier of household goods desires to give authority to an agent or to another motor carrier of household goods to issue and file tariffs and supplements in its stead, a power of attorney ~~in the form prescribed by the department must be used~~ shall be provided to the department.

b. The original power of attorney shall be filed with the ~~office of vehicle and motor carrier services~~ bureau and a copy sent to the agent or motor carrier of household goods on whose behalf the document was issued.

c. No change.

524.15(12) *Nonconforming tariffs.* The ~~office of vehicle and motor carrier services~~ bureau shall review tariffs that do not conform with subrules 524.15(1) to 524.15(11) to determine if the tariffs contain the necessary information and are acceptable. Tariffs that are unacceptable shall be returned with an explanation.

ITEM 11. Amend rule 761—524.18(325A) as follows:

761—524.18(325A) Hearings. A person whose application for a motor carrier permit or certificate has been denied for a reason other than noncompliance with insurance requirements or whose motor carrier permit or certificate has been suspended or revoked for a reason other than noncompliance with insurance requirements may contest the decision in accordance with Iowa Code chapter 17A and 761—Chapter 13. The request for a hearing shall be submitted in writing to the director of the ~~office of vehicle and motor carrier services~~ bureau. The request shall include, as applicable, the motor carrier's name, permit or certificate number, complete address and telephone number. The request must be submitted within 20 days after the date of the notice of suspension, revocation or denial.

[Filed 5/13/20, effective 7/8/20]

[Published 6/3/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/20.

ARC 5048C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to driver's license examinations

The Department of Transportation hereby amends Chapter 604, "License Examination," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.193 and 321.210.

TRANSPORTATION DEPARTMENT[761](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.186, 321.193, 321.196 and 321.210.

Purpose and Summary

This rule making relates to driver's license examinations and aligns with existing legal authority and Department practice, updates contact information, eliminates outdated or irrelevant requirements or options, and accommodates modern procedures. The most significant changes to Chapter 604 are explained in the following paragraphs.

The amendments change several requirements related to vision screening conditions and associated restrictions. The amendments clarify at what visual acuity score a person will be referred to a vision specialist for further screening, strike outdated language requiring the Department to affix a sticker to an applicant's driver's license, and provide that a temporary driving permit shall not be issued for more than 60 days from the end of the license validity, which aligns with the current grace period for an expired driver's license in Iowa Code section 321.196.

The rule making rescinds rule 761—604.22(321), which concerns knowledge test results, because it is outdated, but part of the content of the rule is updated and added as new subrule 604.20(4) to align with current Department practice that at least one business day must have elapsed before a person can retake a failed knowledge test.

The amendments update subrules 604.21(2) and 604.31(2) related to knowledge and driving test waivers to include current Department practice related to knowledge and drive testing when an applicant is seeking to renew a driver's license within one year after its expiration date or within one year without a valid driver's license. Iowa Code section 321.196(2) provides that a driver's license is renewable without a driving test or written examination within a period of one year after the license's expiration date. Iowa Code section 321.196(2) provides that once a person's driver's license has been expired or is invalid for more than one year, testing is required to regain the license. Some of the reasons a person may hold an expired driver's license or have an invalid license for one year could be due to relocation or due to a driver's license sanction. The amendments to subrules 604.21(2) and 604.31(2) clarify that knowledge and drive testing would be required to regain the license if it has been expired or invalid for more than one year. The amendment to subrule 604.31(2) also clarifies that a certificate of completion for motorcycle rider education or motorized bicycle education may be used to waive the driving test for more than just the first time the license was issued, which allows an applicant who chooses to attend a subsequent motorcycle rider education course or motorized bicycle education course to use that new certificate of completion to waive a subsequent skills test. This change accommodates motorcycle license applicants who would prefer to take another motorcycle rider education course rather than taking a motorcycle skills test with the Department.

The amendment to paragraph 604.30(1)"a" relating to the vehicle requirements for a driving test aligns with current Department practice requiring a person to provide proof of financial responsibility for the vehicle the person is seeking to use during the driving test.

This rule making also relates to a special reexamination of a driver's licensee. A reexamination may occur when a licensee has been involved in an accident, including a fatal motor vehicle accident, or when an investigating officer's report of the accident(s) lists certain contributing factors. Rule 761—604.50(321) is amended as follows:

To add cognitive screening to the list of requirements that may accompany a special reexamination. Iowa Code section 321.186(3) authorizes the Department to examine an applicant for a driver's license, including a mental examination necessary to determine an applicant's fitness to operate a motor vehicle safely. The Department currently utilizes the nationally recognized Driver Orientation Screen for Cognitive Impairment (DOSCI) and the Safe Driving Basics (SDB) programs for cognitive screening.

To align the rule with the current practice when an investigating officer lists the underlying condition of the licensee as "fatigue or asleep" in an accident report, which may result in a special reexamination after a single accident.

TRANSPORTATION DEPARTMENT[761](cont'd)

To recognize that vision may be a contributing factor to an accident, thus requiring a special reexamination regardless of whether the accident occurred during the day or at night.

To align with Iowa Code section 321.186, which authorizes the Department to require a special reexamination if the Department receives evidence that a licensee may be physically or mentally incapable of operating a motor vehicle safely.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 25, 2020, as **ARC 4995C**. 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, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—604.3(17A) as follows:

761—604.3(17A) Information and forms.

604.3(1) Applications, forms, and information about driver's license examinations are available at any driver's license ~~examination station~~ service center. Assistance is also available from the ~~office of driver and identification services at the address in 761—600.2(17A)~~ bureau by mail at Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at www.iowadot.gov.

604.3(2) The "Iowa Driver Manual" and the "Iowa Motorcycle Operator Manual" are also available from the department and on the department's website at www.iowadot.gov.

This rule is intended to implement Iowa Code section 17A.3.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 2. Amend subrule 604.10(2) as follows:

604.10(2) Method. At driver's license ~~examination stations~~ service centers, a vision screening instrument shall be used to screen the applicant's vision. An applicant who has corrective lenses may be screened with or without the corrective lenses.

ITEM 3. Amend rule ~~761—604.10(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.186, 321.186A and 321.196 ~~as amended by 2013 Iowa Acts, House File 355, section 1.~~

ITEM 4. Amend rule 761—604.12(321) as follows:

761—604.12(321) Vision referrals.

604.12(1) Referral.

a. If ~~during any vision screening~~, an applicant ~~on first screening~~ cannot attain 20/40 ~~with at least one eye but can attain 20/70 with at least one eye~~, the department shall not issue a license to the applicant. Instead, the department shall advise the applicant to consult a licensed vision specialist.

b. No change.

604.12(2) License.

a. ~~The department shall affix a sticker to the applicant's license stating: "Renewal or license issuance denied due to vision."~~

b. If the applicant's license is valid ~~for less than 30 days~~, the department may issue a temporary driving permit with restrictions appropriate to the applicant's visual acuity level and field of vision. ~~The~~ If the applicant's license is valid for less than 30 days, the temporary driving permit is shall not be valid for ~~not more than 30~~ 60 days from the end of the current license validity.

604.12(3) and 604.12(4) No change.

This rule is intended to implement Iowa Code sections 321.181, 321.186, 321.186A, 321.193 and 321.196.

ITEM 5. Amend rule 761—604.13(321) as follows:

761—604.13(321) Vision screening results.

604.13(1) Two-year license. An applicant who cannot attain a visual acuity of 20/40 with both eyes or with the better eye shall be issued a two-year license. ~~This restriction may be waived by the department when a vision report pursuant to subrule 604.10(3) certifies that the vision has stabilized and is not expected to deteriorate.~~

604.13(2) No change.

604.13(3) Reapplication. An applicant who cannot meet the vision standards in subrule 604.13(2) may reapply when the vision improves and the applicant meets the vision standards. If a suspension or denial notice was served, reapplication must be made to the office of driver and identification services bureau at the address in ~~761—600.2(17A)~~ subrule 604.3(1), ~~and not~~ or at a driver's license ~~examination station service center~~.

604.13(4) Discretionary issuance.

a. No change.

b. Based upon consideration of the applicant's ~~vision screening results~~ or vision report, driving test and driving record, the written recommendation of the applicant's licensed vision specialist, and traffic conditions in the vicinity of the applicant's residence, the officer may recommend issuing a license with restrictions suitable to the applicant's capabilities. However:

(1) to (4) No change.

c. No change.

This rule is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196.

ITEM 6. Adopt the following new subrule 604.20(4):

604.20(4) Retesting. An applicant who fails a knowledge test may repeat the test at the discretion of the examiner, but at least one business day shall elapse between tests.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 7. Amend subrule 604.21(2) as follows:

604.21(2) Knowledge test waivers. The department may waive a knowledge test listed in subrule 604.21(1) if the applicant meets one of the following qualifications:

a. The applicant has passed the same type of test for another Iowa driver's license or an equivalent out-of-state license that is still valid or has expired within the past year.

b. and *c.* No change.

d. The applicant is renewing an Iowa driver's license or endorsement within a period of one year after the expiration date of the license or endorsement.

e. The applicant is reinstating from a denial, cancellation, suspension, revocation, disqualification or bar of an Iowa driver's license or endorsement within a period of one year after the expiration date of the denial, cancellation, suspension, revocation, disqualification or bar.

ITEM 8. Rescind and reserve rule **761—604.22(321)**.

ITEM 9. Amend paragraph **604.30(1)“a”** as follows:

a. For the driving test, the applicant shall provide a representative vehicle as defined in 761—604.2(321) and proof of financial responsibility for the representative vehicle.

ITEM 10. Amend subrule 604.31(2) as follows:

604.31(2) Driving test waivers. The department may waive a required driving test listed in subrule 604.31(1) if the applicant meets one of the following qualifications:

a. ~~The applicant is applying for the applicant's first Iowa driver's license that permits unaccompanied driving following successful completion of~~ has successfully completed the appropriate Iowa-approved course or courses. The appropriate Iowa-approved courses are the following: driver education, other than driver education by a teaching parent under rule 761—634.11(321), for a an applicant's first Class C driver's license that permits unaccompanied driving other than motorized bicycle; ~~driver education and motorcycle rider education for a Class M driver's license or motorcycle endorsement~~ motorcycle rider education for a Class M driver's license or motorcycle endorsement; and motorized bicycle education for a motorized bicycle license. However, if an applicant is under the age of 18, a driving test is required if so requested by the applicant's parent, guardian, or instructor.

b. The applicant is renewing a Class C, Class D or Class M Iowa driver's license or endorsement within ~~14 months~~ a period of one year after the expiration date of the license or endorsement.

c. The applicant is reinstating from a denial, cancellation, suspension, revocation, disqualification or bar of an Iowa driver's license or endorsement within a period of one year after the expiration date of the denial, cancellation, suspension, revocation, disqualification or bar.

~~*e.*~~ *d.* The applicant has passed the same type of driving test for another Iowa driver's license or endorsement that is still valid or has expired within the past ~~14 months~~ year.

~~*d.*~~ *e.* The applicant has a military extension and is renewing the applicant's Iowa driver's license within six months following separation from active duty.

~~*e.*~~ *f.* The applicant is applying for a Class C Iowa driver's license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past year.

~~*f.*~~ *g.* The applicant is applying for a Class D Iowa driver's license and has an equivalent out-of-state license that is valid or has expired within the past year.

~~*g.*~~ *h.* The applicant is applying for a Class M driver's license or a motorcycle endorsement and has an equivalent out-of-state Class M driver's license or motorcycle endorsement that is valid or has expired within the past year.

~~*h.*~~ *i.* The applicant has a valid, equivalent driver's license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.

ITEM 11. Amend paragraph **604.40(2)“b”** as follows:

b. After the three unsuccessful attempts, no further testing shall be allowed until six months have elapsed from the date of the last test failure, and then only if the applicant demonstrates a significant change or improvement in those physical or mental factors that resulted in the original decision. A

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request for further testing must be submitted in writing to the ~~office of driver~~ and identification services bureau at the address in rule 761—600.2(17A) subrule 604.3(1).

ITEM 12. Amend rule 761—604.50(321) as follows:

761—604.50(321) Special reexaminations. The department may require a special reexamination consisting of a vision screening, cognitive screening, knowledge test and driving test of any licensee.

604.50(1) and **604.50(2)** No change.

604.50(3) The department may require a special reexamination when a licensee has been involved in ~~two accidents within a three-year period~~ an accident and the investigating ~~officers' reports for both accidents list~~ officer's report lists a driver condition for the licensee of "~~apparently asleep.~~" "fatigue or asleep."

604.50(4) The department may require a special reexamination when a licensee who is 65 years of age or older has been involved in an accident and information in the investigating officer's or the person's own report of the accident indicates the need for reexamination. A circumstance that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. to *e.* No change.

f. The licensee's vision may be a contributing factor to a ~~nighttime~~ an accident.

g. No change.

h. The investigating officer's report lists a driver condition for the licensee of "loss of consciousness."

i. The investigating officer's report lists a driver condition for the licensee of "illness which resulted in the accident."

604.50(5) The department may require a special reexamination when ~~recommended the department~~ receives an accident report or a recommendation by a peace officer, a court, or a properly documented citizen's request. A factor that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. Loss of consciousness.

b. Confusion, disorientation or dementia.

c. Inability to maintain a vehicle in the proper lane.

d. Repeatedly ignoring traffic control devices in a nonchase setting.

e. Inability to interact safely with other vehicles.

f. Inability to maintain consistent speed when no reaction to other vehicles or pedestrians is required.

g. Illness which resulted in an accident.

This rule is intended to implement Iowa Code sections 321.177, 321.186 and 321.210.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/20.

**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 139 of the Governor's proclamation of disaster emergency issued May 26, 2020: [governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.05.26%20%281%29.pdf](https://www.governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.05.26%20%281%29.pdf).