IOWA ADMINISTRATIVE BULLETIN
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June 5, 2019
NUMBER 25
Pages 2983 to 3148

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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.

JACK EWING, Administrative Code Editor Telephone: (515)281-6048 Email: Jack.Ewing@legis.iowa.gov
Publications Editing Office (Administrative Code) Telephone: (515)281-3355 Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).
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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**
## EDUCATION DEPARTMENT[281]

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Grimes State Office Bldg.  
Des Moines, Iowa  
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9 to 10 a.m.

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June 27, 2019
10 a.m. (If requested)
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1 p.m. (If requested)
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9 to 11 a.m.
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June 25, 2019
9:30 a.m.
The following list will be updated as changes occur.
“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.
Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”
Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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Proposing rule making related to future ready Iowa skilled workforce last-dollar scholarship program and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to adopt new Chapter 15, “Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 and 2018 Iowa Acts, House File 2458, and 2019 Iowa Acts, House File 758.

Purpose and Summary

The proposed chapter implements a new scholarship program enacted in 2018 Iowa Acts, House File 2458, section 12. House File 2458 was enacted with an effective date of July 1, 2019. House File 2458 makes adoption of administrative rules contingent upon the appropriation of funds by the General Assembly. The General Assembly approved an appropriation for the Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program in 2019 Iowa Acts, House File 758, on April 24, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Karen Misjak
Executive Director
College Student Aid Commission
475 S.W. Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Phone: 515.725.3410
Fax: 515.725.3401
Email: karen.misjak@iowa.gov or administrative rules website: rules.iowa.gov
Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following new 283—Chapter 15:

CHAPTER 15

FUTURE READY IOWA SKILLED WORKFORCE LAST-DOLLAR SCHOLARSHIP PROGRAM

283—15.1(261) Basis for aid. The future ready Iowa skilled workforce last-dollar scholarship program provides scholarship assistance to Iowa residents enrolled in eligible programs aligned with high-demand jobs.

283—15.2(261) Definitions. As used in this chapter:

“Approved program” means a career and technical education program that has a classification of instructional program code approved by the Iowa department of education and that meets similar criteria as established for career and technical education programs approved under 281—Chapter 21.

“Continuous enrollment” means an eligible student is enrolled in the fall and spring semester, or the equivalent, of a single year. Enrollment in the summer semester is not required.

“Credential” means a Title IV-eligible program of study leading to a postsecondary certificate, diploma, or degree, conferring no more than an associate degree, which, upon completion, leads directly to employment, and is awarded by an eligible institution and earned in a program of study that leads to a designated high-demand job.

“Eligible program” means an approved program certified through the selection process described in rule 283—15.5(261).

“Full-time” means enrollment in at least 12 hours per semester or the equivalent.

“Part-time” means enrollment in at least 6 but less than 12 hours per semester or the equivalent.

“Semester” means the fall, spring, or summer term of enrollment at an eligible institution, if the eligible institution is on a semester system, or the equivalent if the institution is on a system other than a semester system.

283—15.3(261) Eligible students.

15.3(1) An applicant of the future ready Iowa skilled workforce last-dollar scholarship program must:

a. Be an Iowa resident as defined in 283—Chapter 10.

b. Annually complete the Free Application for Federal Student Aid and any other application required by the college student aid commission by the priority application date specified by the college student aid commission.

c. Attend an orientation session, in person or virtually, for the eligible institution.

d. Register for courses with the assistance of an advisor, create a graduation plan as required under the eligible program, and participate in available academic advising sessions.
e. Enroll in an eligible program at an eligible institution.

f. Consider participating in the volunteer mentor program, as defined by the commission on volunteer service.

g. Participate in available career advising sessions as required under the eligible program, including creation of a career plan when possible.

h. Meet satisfactory academic progress standards as defined by the eligible institution in accordance with the provisions of the federal Higher Education Act of 1965, as amended.

i. Receive no more than the equivalent of five full-time awards or eight part-time awards.

j. Meet one of the following two conditions:

(1) Enroll on a full-time basis during the fall semester immediately following graduation from an Iowa high school or completion of private instruction under Iowa Code chapter 299A, and maintain continuous enrollment on a full-time basis in subsequent terms to receive additional awards. An eligible student may enroll in fewer than 12 semester hours, or the equivalent, in the semester that the credential will be completed if full-time enrollment is not required to complete the program of study.

(2) Following receipt of a high school diploma or high school equivalency diploma, and on or after attaining the age of 20, enroll on a full-time or part-time basis in an eligible program at an eligible institution, and maintain continuous enrollment on a full-time or part-time basis in subsequent terms to receive additional awards. Ages are calculated on July 1 prior to the year of enrollment.

If the student is granted a leave of absence by the eligible institution in accordance with provisions of the federal Higher Education Act of 1965, as amended, the student is not required to maintain continuous enrollment during the period covered by the approved leave of absence.

15.3(2) Reserved.

283—15.4(261) Award amounts.

15.4(1) Awards for eligible students attending Iowa community colleges shall not exceed the remaining tuition and mandatory institutionwide fees after applying federal and state nonrepayable aid. However, awards for eligible students enrolled on a full-time basis shall be at least $250 per semester or the equivalent amount if the eligible institution operates on a system other than the semester system. Awards for eligible students enrolled on a part-time basis shall be the same amount prorated based on the number of semester hours, or the equivalent, in which the part-time student enrolls.

15.4(2) Awards for eligible students attending an accredited private institution or eligible institution, as defined in Iowa Code section 261.9, shall not exceed the average tuition and mandatory institutionwide fees at Iowa community colleges after applying federal and state nonrepayable aid. However, awards for eligible students enrolled on a full-time basis shall be at least $250 per semester or the equivalent amount if the eligible institution operates on a system other than the semester system. Awards for eligible students enrolled on a part-time basis shall be the same amount prorated based on the number of semester hours, or the equivalent, in which the part-time student enrolls. The average resident tuition and mandatory institutionwide fees will be determined by the Iowa department of education.

15.4(3) A student must be enrolled as a regular student in an eligible program that qualifies for Title IV funds. Tuition and institutionwide mandatory fees associated only with coursework required for the student’s Title IV-eligible program of study can be used to determine the award amount.

283—15.5(261) Selection of eligible programs.

15.5(1) An eligible program must lead to a credential aligned with a high-demand job pursuant to 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12.

15.5(2) Before an approved program is considered an eligible program, the department of workforce development and the college student aid commission, in consultation with the Iowa department of education, must jointly certify that the program of study and credential are aligned with a high-demand job.

283—15.6(261) Criteria for maintaining eligible program status. The following criteria shall be used in the certification process.
15.6(1) By providing student data in a form and manner prescribed by the college student aid commission, the eligible institution shall demonstrate the eligible program, upon completion, leads to employment and not primarily to transfer to baccalaureate degree programs. The college student aid commission, the department of workforce development, and the Iowa department of education shall jointly determine employment outcomes, including wage thresholds.

If an eligible institution fails to demonstrate that an eligible program meets the certified outcomes for three successive years, new eligible students entering the eligible program are prohibited from receiving awards under this rule until such time that the college student aid commission determines that certified outcomes are being met.

15.6(2) A list of all programs eligible for the future ready Iowa skilled workforce last-dollar scholarship program, as well as the required courses and the suggested course sequence, must be available in one prominent location on the eligible institution’s website.

283—15.7(261) Awarding of funds.

15.7(1) Eligible students who enroll in eligible programs at eligible institutions may receive awards during a semester.

15.7(2) In the first year that funding is appropriated, and in the event that funds available are insufficient to award all eligible students, awards are first prioritized to eligible students who were not enrolled during the previous academic year. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards insofar as funds permit.

15.7(3) In the event that funds available are insufficient to award all eligible students, awards are first prioritized to eligible students who received an award during the prior year, according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards insofar as funds permit.

15.7(4) In the event that funds available are sufficient to award all eligible students meeting the conditions specified in subrule 15.7(2) or 15.7(3) but are insufficient to award all eligible students, awards are provided to additional eligible students according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards insofar as funds permit.

15.7(5) If the state workforce development board or a community college district removes a high-demand job from a list created under 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12, an eligible student who received an award in a program of study aligned with that high-demand job shall continue to receive the award as long as the student continues to meet all other eligibility criteria.

283—15.8(261) Institution eligibility requirements.

15.8(1) Application process. An institution requesting to participate in the future ready Iowa skilled workforce last-dollar scholarship program must apply to the college student aid commission using the college student aid commission’s designated application. An applicant institution must provide the college student aid commission with documentation establishing eligibility as described in subrule 15.8(2). Applicant institutions seeking to participate in the future ready Iowa skilled workforce last-dollar scholarship program must submit applications by October 1 of the year prior to the beginning of the academic year for which they are applying for participation, with the exception of the first state fiscal year in which appropriations are authorized for expenditure.

15.8(2) Eligible institution. An Iowa community college as defined in Iowa Code section 260C.2 or an accredited private institution or eligible institution as defined in Iowa Code section 261.9 must:

a. Require eligible students to:

   (1) Attend an orientation session, in person or virtually, for the eligible institution.

   (2) Register for courses with the assistance of an advisor, create a graduation plan as required under the eligible program, and participate in available academic advising sessions.

   (3) Participate in available career advising sessions as required under the eligible program, including creation of a career plan when possible.
COLLEGE STUDENT AID COMMISSION[283](cont’d)

b. Notify eligible students of the volunteer mentor program, encourage them to participate, and facilitate, in collaboration with the commission on volunteer service, the assignment of a volunteer mentor to each eligible student, based on the student’s interests.

c. Facilitate connections through campus career centers and services to internships and similar local, state, and federal programs.

d. Market the eligible institution’s eligible programs and optional incentives on the eligible institution’s website and to other relevant agencies and organizations as recommended by the college student aid commission, commission on volunteer service, or department of workforce development.

e. Submit information annually to the college student aid commission including, but not limited to, information regarding recipients, scholarship disbursements, recipients’ eligible programs, recipient completion rates by eligible program, and recipient employment outcomes. Information shall be submitted in the format prescribed by the college student aid commission. The college student aid commission may collaborate with other state agencies to obtain data from existing sources to reduce eligible institution reporting requirements.

15.8(3) Compliance reviews. The college student aid commission shall periodically investigate and review compliance of institutions participating in the future ready Iowa skilled workforce last-dollar scholarship program.

283—15.9(261) Award notification. A scholarship recipient will be notified of the award by the institution to which application is made. The institution is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The eligible institution shall report changes in student eligibility to the college student aid commission.

283—15.10(261) Award transfers and adjustments. Recipients are responsible for promptly notifying the appropriate eligible institution of any change in enrollment. The eligible institution will make necessary changes and notify the college student aid commission.

283—15.11(261) Restrictions. A student who is in default on a Stafford Loan, an SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the future ready Iowa skilled workforce last-dollar scholarship program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by the college student aid commission’s ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapters 4 and 5.

These rules are intended to implement 2018 Iowa Acts, House File 2458, section 12.

ARC 4473C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rule making related to future ready Iowa skilled workforce grants and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to adopt new Chapter 16, “Future Ready Iowa Skilled Workforce Grant Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 261.3.
State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 and 2018 Iowa Acts, House File 2458, and 2019 Iowa Acts, House File 758.

Purpose and Summary

The proposed chapter implements a new grant program enacted in 2018 Iowa Acts, House File 2458, section 13. House File 2458 was enacted with an effective date of July 1, 2019. House File 2458 makes adoption of administrative rules contingent upon the appropriation of funds by the General Assembly. The General Assembly approved an appropriation for the Future Ready Iowa Skilled Workforce Grant Program in 2019 Iowa Acts, Senate File 608, on April 24, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Karen Misjak
Executive Director
College Student Aid Commission
475 S.W. Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Phone: 515.725.3410
Fax: 515.725.3401
Email: karen.misjak@iowa.gov or administrative rules website: rules.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:
COLLEGE STUDENT AID COMMISSION[283](cont’d)

Adopt the following new 283—Chapter 16:

CHAPTER 16
FUTURE READY IOWA SKILLED WORKFORCE GRANT PROGRAM

283—16.1(261) Basis for aid. The future ready Iowa skilled workforce grant program provides grant assistance to Iowa residents enrolled in eligible programs aligned with high-demand jobs.

283—16.2(261) Definitions. As used in this chapter:

“Continuous enrollment” means an eligible student is enrolled in the fall and spring semester of a single year. Enrollment in the summer semester is not required.

“Eligible program” means a curriculum leading to a baccalaureate degree that is eligible for Title IV financial aid and is aligned with a high-demand job designated by the state workforce development board pursuant to 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12. The eligible program must be certified through the selection process described in rule 283—16.5(261).

“Full-time” means enrollment in at least 12 semester hours or the equivalent.

“Part-time” means enrollment in at least 6 but less than 12 semester hours or the equivalent. An eligible student may enroll in less than six semester hours in the semester in which the eligible program will be completed if less than six semester hours are required to complete the eligible program.

“Semester” means the fall, spring, or summer term of enrollment at an eligible institution, if the eligible institution is on a semester system, or the equivalent, if the institution is on a system other than a semester system.

283—16.3(261) Eligible students. An applicant of the future ready Iowa skilled workforce grant must:

1. Be an Iowa resident as defined in 283—Chapter 10.
2. Annually complete the Free Application for Federal Student Aid and any other application required by the college student aid commission by the priority application date specified by the college student aid commission.
3. Attend an orientation session, in person or virtually, for the eligible institution.
4. Register for courses with the assistance of an advisor, create a graduation plan as required under the eligible program, and participate in available academic advising sessions.
5. Enroll in an eligible program at an eligible institution.
6. Consider participating in the volunteer mentor program, as defined by the commission on volunteer service.
7. Have earned at least half of the credits necessary to complete an eligible program. Preference will be given to applicants returning to complete their first baccalaureate degree.
8. Not have been enrolled in postsecondary education for two academic years prior to the academic year in which the grant is first received.
9. Upon receipt of the grant, maintain continuous full-time or part-time enrollment at an eligible institution.

If the student is granted a leave of absence by the eligible institution in accordance with provisions of the federal Higher Education Act of 1965, as amended, the student is not required to maintain continuous enrollment during the period covered by the approved leave of absence.

10. Participate in available career advising sessions as required under the eligible program, including creation of a career plan when possible.
11. Meet satisfactory academic progress standards as defined by the eligible institution in accordance with the provisions of the federal Higher Education Act of 1965, as amended.
12. Receive awards for no more than the equivalent of four full-time semesters or eight part-time semesters or until the eligible student completes the eligible program, whichever occurs first.
283—16.4(261) Award amounts. Awards for eligible students enrolled on a full-time basis shall be at least $1,000 annually. Awards for eligible students enrolled on a part-time basis shall be the same amount prorated based on the number of semester hours in which the part-time student enrolls.

283—16.5(261) Selection of eligible programs.
   16.5(1) An eligible program must lead to a credential aligned with a high-demand job pursuant to 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12.
   16.5(2) Before a program of study is considered an eligible program, the department of workforce development and the college student aid commission, in consultation with the eligible institution, must jointly certify that the program of study and credential are aligned with a high-demand job.
   16.5(3) A list of required courses and the suggested course sequence for each eligible program must be available in a prominent location on the eligible institution’s website.
   16.5(4) Eligible programs may be reviewed by the commission periodically to ensure compliance with the criteria set forth in this rule.

283—16.6(261) Awarding of funds.
   16.6(1) Selection criteria. Eligible students who enroll in eligible programs at eligible institutions may be considered for awards during a semester.
   16.6(2) Priority for grants. In the event that funds available are insufficient to award all on-time applicants, awards are prioritized in the following order:
      a. Eligible students who received the grant in the prior year.
         In the event that funds available are insufficient to award all on-time applicants as specified in this paragraph, awards are prioritized to eligible students who received a grant during the prior year, according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards, insofar as funds permit.
      b. Eligible students with 12 or fewer semester hours remaining to complete an eligible program.
         In the event that funds available are insufficient to award all on-time applicants in an eligible program, as specified in this paragraph, awards are prioritized to eligible students according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards, insofar as funds permit.
      c. Eligible students with more than 12 semester hours remaining to complete an eligible program.
         In the event that funds available are insufficient to award all on-time applicants in an eligible program, as specified in this paragraph, awards are prioritized to eligible students according to the date the student completes the application. Applications will be ranked in date-received order, and students who complete the application by the earliest date will receive awards, insofar as funds permit.
   16.6(3) Removal of high-demand job from list. If the state workforce development board removes a high-demand job from a list created under 2018 Iowa Acts, House File 2458, section 7, as amended by 2019 Iowa Acts, House File 758, section 12, an eligible student who received a grant in a program of study aligned with that high-demand job shall continue to receive the grant as long as the student continues to meet all other eligibility criteria.

283—16.7(261) Institution eligibility requirements.
   16.7(1) Application process. An institution requesting to participate in the future ready Iowa skilled workforce grant program must apply to the college student aid commission using the college student aid commission’s designated application. An applicant institution must provide the college student aid commission with documentation establishing eligibility as described in subrule 16.7(2). Applicant institutions seeking to participate in the future ready Iowa skilled workforce grant program must submit applications by October 1 of the year prior to the beginning of the academic year for which they are applying for participation, with the exception of the first state fiscal year in which appropriations are authorized for expenditure.
COLLEGE STUDENT AID COMMISSION[283](cont’d)

16.7(2) Eligible institution. An institution of higher learning governed by the state board of regents or an accredited private institution or eligible institution as defined in Iowa Code section 261.9 must:

a. Require eligible students to:
   1. Attend an orientation session, in person or virtually, for the eligible institution.
   2. Register for courses with the assistance of an advisor, create a graduation plan as required under the eligible program, and participate in available academic advising sessions.
   3. Participate in available career advising sessions as required under the eligible program, including creation of a career plan when possible.

b. Notify eligible students of the volunteer mentor program, encourage them to participate, and facilitate, in collaboration with the commission on volunteer service, the assignment of a volunteer mentor to each eligible student, based on the student’s interests.

c. Facilitate connections through campus career centers and services to internships and similar local, state, and federal programs.

d. Market the eligible institution’s eligible programs and optional incentives on the eligible institution’s website and to other relevant agencies and organizations as recommended by the college student aid commission, commission on volunteer service, or department of workforce development.

e. Submit information annually to the college student aid commission including, but not limited to, information regarding recipients, grant disbursements, recipients’ eligible programs, recipient completion rates by eligible program, and recipient employment outcomes. Information shall be submitted in the format prescribed by the college student aid commission.

16.7(3) Compliance reviews. The college student aid commission shall periodically investigate and review compliance of institutions participating in the future ready Iowa skilled workforce grant program.

283—16.8(261) Award notification. A grant recipient will be notified of the award by the institution to which application is made. The institution is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The eligible institution shall report changes in student eligibility to the college student aid commission.

283—16.9(261) Award transfers and adjustments. Recipients are responsible for promptly notifying the appropriate eligible institution of any change in enrollment. The institution will make necessary changes and notify the college student aid commission.

283—16.10(261) Restrictions. A student who is in default on a Stafford Loan, an SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the future ready Iowa skilled workforce grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by the college student aid commission’s ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapters 4 and 5. These rules are intended to implement 2018 Iowa Acts, House File 2458, section 13.

ARC 4478C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

The State Board of Education hereby proposes to amend Chapter 43, “Pupil Transportation,” Iowa Administrative Code.
Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 285.8, 321.375 and 321.377.

Purpose and Summary

Chapter 43 outlines requirements regarding pupil transportation. These proposed amendments to Chapter 43 reflect requests from the field, provide clarifying language and technical corrections, and reflect changes to Department of Education practices. A more detailed explanation of these amendments follows:

Item 1 removes a restriction on load capacity, allows a school or school district to extend the current student ride time restriction by up to 15 minutes subsequent to a public hearing, and clarifies responsibilities for bus route reviews.

Items 2, 3, 5 to 7, 9 to 11, 17, 19, and 21 provide updated or clarifying language and technical corrections.

Item 4 clarifies that a private contractor is not prohibited from establishing variance in fees if a difference in transportation is necessary in order to meet student needs.

Item 8 modifies provisions related to nonroute uses of school buses, including broadening the type of staff members that can be involved and specifying that chaperones shall ride rather than accompany the bus. This item also clarifies requirements pertaining to passenger seating and requires schools utilizing buses in which 3-point lap-shoulder belts are installed to adopt a board policy regarding use of these lap-shoulder belts by passengers.

Item 12 clarifies that for districts transporting students through a private contractor, billing for semiannual inspections of school buses will be presented to the contracting district for payment (current Department practice). This item also strikes a provision requiring that a “school bus driver and passenger safety education plan” be a component of the Department’s annual school transportation budget.

Item 13 modifies responsibilities pertaining to the submission of school bus driver authorization information to the Department of Education.

Item 14 modifies required local board procedures regarding the purchase of school buses.

Item 15 clarifies that the purchase of a school bus can be made from a fund other than the general fund as allowed by statute.

Item 16 proposes to increase the bus inspection fee from $40 to $50 per inspection, effective July 1, 2020. The increased fee is requested to accommodate increased costs to the Department of Education related to the inspection process and to allow for inspection staff training opportunities. The inspection fee was last raised in 2013.

Item 18 makes revisions to language requirements for contracts with private providers to transport school pupils.

Item 20 removes a requirement for the superintendent of schools to report accidents involving any vehicle used as a school bus to the Department of Education on the Department of Transportation Iowa Accident Report Form. This information is available to the Department of Education from the Department of Transportation.

Item 22 proposes to allow a driver to permit firearms or other weapons and ammunition to be transported in a school vehicle, provided these items are not in the passenger compartment of any school vehicle transporting pupils. The intent is to accommodate schools and school districts whose student activity programs include shooting sports, such as those organized through the Department of Natural Resources.

Item 23 updates language regarding civil defense projects to better allow for implementation of school emergency operation plans.
Item 24 adds language specifying when twice-annual safe riding instruction and emergency evacuation drills are to be provided to pupils and adds a requirement for schools to maintain documentation of these drills for five years and that the documentation be made available upon request. This item also modifies requirements pertaining to pretrip and posttrip vehicle inspections, provides a definition of “common carrier,” and removes the requirement for common carriers to provide accident reports to the Department of Education (similar to Item 19).

**Fiscal Impact**

This rule making has no fiscal impact to the State of Iowa. However, the increase in inspection fee proposed in Item 16 will have a minimal impact on local school transportation costs. Since vehicles are inspected semiannually, the proposal will result in a $20 increase per vehicle. School transportation costs are referenced when determining distribution of transportation equity funding under Iowa Code section 257.16C, open enrollment transportation assistance under Iowa Code section 282.18(10)“c,” and nonpublic transportation reimbursement under Iowa Code section 285.1(12).

**Jobs Impact**

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

**Waivers**

An agencywide waiver provision is provided in 281—Chapter 4.

**Public Comment**

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Nicole Proesch  
General Counsel  
Department of Education  
Grimes State Office Building, Second Floor  
Des Moines, Iowa 50319-0146  
Phone: 515.281.8661  
Fax: 515.242.5988  
Email: nicole.proesch@iowa.gov

**Public Hearing**

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

- June 25, 2019  
  9 to 10 a.m.  
  State Board Room, Second Floor  
  Grimes State Office Building  
  East 14th Street and Grand Avenue  
  Des Moines, Iowa

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

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

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 281—43.1(285) as follows:

281—43.1(285) Intra-area education agency routes.

43.1(1) Bus routes within the boundaries of transporting districts as well as within designated areas must be as efficient and economical as possible under existing conditions. Duplication of service facilities shall be avoided insofar as possible.

43.1(2) A route shall provide a load of at least 75 percent capacity of the bus.

43.1(3) 43.1(2) The riding time, under normal conditions, from the designated stop to the attendance center, or on the return trip, shall not exceed 75 minutes for high school pupils or 60 minutes for elementary pupils. A school district may extend the riding time limits up to 15 minutes subsequent to a public hearing. (These limits may be waived upon request of the parents.)

43.1(4) 43.1(3) Pupils whose residence is within two miles of an established stop on a bus route are within the area served by the bus and are not eligible for parent or private transportation at public expense to the school served by the bus, except as follows:

a. Bus is fully loaded.

b. Physical handicap disability makes bus transportation impractical.

All parents or guardians who are required by their school district to furnish transportation for their children up to two miles to an established stop on a bus route shall be reimbursed pursuant to Iowa Code subsection section 285.1(4).

43.1(5) 43.1(4) Transferring districts shall arrange routes to provide the greatest possible convenience to the pupils. Distance The distance for pupils who are required to transport themselves to travel to meet the bus shall be kept to the minimum consistent with road conditions, uniform standards, and legal requirements for locating bus routes.

43.1(6) 43.1(5) Each bus route shall be reviewed annually by local transportation staff for safety hazards. A record of the annual review must be maintained.

ITEM 2. Amend subrule 43.2(5) as follows:

43.2(5) All interarea education agency bus routes must be approved each year. If there has been no change in the designations, nor in the proposed route, the transportation plan may be made and agreement indicated by letter.

ITEM 3. Amend rule 281—43.3(285) as follows:

281—43.3(285) Contract required. All private contractors wishing to transport pupils to and from school in privately owned vehicles must be under contract with the local board of education. This requirement does not apply to individuals who transport their own children or other children on a not-for-hire basis.

The contract form used shall be that provided by the department of education. (Form TR-E 4497)

ITEM 4. Amend rule 281—43.4(285) as follows:

281—43.4(285) Uniform charge. The contract must provide for a uniform charge for all pupils transported. No differentiations may be made between pupils of different districts except as provided in Iowa Code section 285.1(12). Nothing shall prohibit a private contractor from establishing variance in fees when differences in how transportation is provided are necessary in order to meet student needs.
ITEM 5. Amend rule 281—43.7(285) as follows:

281—43.7(285) Vehicle requirements. Any vehicle used, other than that used by individuals to transport their own children or other children on a not-for-hire basis, is considered to be a school bus and must meet all requirements for the type of vehicle used, including semiannual inspection. (This requirement is not intended to restrict the use of passenger cars vehicles during the time the vehicles are not actually engaged in transporting school pupils.)

ITEM 6. Amend rule 281—43.9(285) as follows:

281—43.9(285) Activity trips deducted. Transporting school districts which use their equipment for activity trips, or educational tours, or other types of transportation services as permitted in Iowa Code sections 285.10(9) and 285.10(10), must deduct the cost of trips from the total yearly transportation cost. In other words, These costs may not be included in the pro rata costs which determine the charge to sending districts.

Accurate Transporting school districts must maintain accurate and complete accounting records must be kept so that the cost of transportation to and from school may be ascertained.

ITEM 7. Amend 281—Chapter 43, Division IV title, as follows:

DIVISION IV
USE OF SCHOOL BUSES OTHER THAN ROUTES

ITEM 8. Amend subrules 43.10(3) to 43.10(6) as follows:

43.10(3) The program or activity must be sponsored by a school or group of schools cooperatively and be is under the direct control of a qualified teacher or recreational or playground director staff member of a school district.

   a. A regularly certificated teacher must be in charge of the program. Several or all schools may engage the same instructor staff member on a cooperative basis.

   b. and c. No change.

43.10(4) The bus shall be driven by a regularly an approved driver holding an appropriate driver’s license and a school bus driver’s authorization. In addition, the buses must be accompanied by a member of the faculty or other employee of the school or a parent or other adult volunteer as authorized by a school administrator who will be responsible for the conduct and the general supervision of the pupils on the bus and at the place of the activity. This person shall ride the bus. If the faculty member is an approved driver, that person can act both as a driver and faculty sponsor.

43.10(5) School buses may be used by an organization of, or sponsoring activities for, senior citizens, children, handicapped individuals with disabilities, and other persons and groups, and for transportation of persons other than pupils to activities in which pupils from the school are participants or are attending the activity or for which the school is a sponsor under the following conditions:

   a. and b. No change.

   c. A chaperone shall accompany ride each bus to assist the passengers in boarding and disembarking from the bus and to aid them in case of illness or injury.

   d. No change.

   e. The driver of the bus shall observe the maximum speed limits all motor vehicle laws for school buses at all times.

43.10(6) Seating The bus meets passenger seating requirements.

   a. Each passenger shall have a comfortable seat, with no part of the passenger’s body extending into the aisle.

   b. to e. No change.

   f. Districts with buses utilizing 3-point lap–shoulder belts shall adopt a board policy regarding use of these lap–shoulder belts by passengers.
ITEM 9. Amend rule 281—43.11(285) as follows:

281—43.11(285) Teacher transportation. Public school teachers who are transported should be included in the average number transported to or from the teacher’s school should be charged the pro rata cost by the transporting district.

ITEM 10. Amend rule 281—43.12(285), introductory paragraph, as follows:

281—43.12(285) Driver qualifications. General character and emotional stability are qualities which must be given careful consideration by boards of education in the selection of school bus drivers. Elements that should be considered in setting a character standard are include, but are not limited to:

ITEM 11. Amend rule 281—43.15(285) as follows:

281—43.15(285) Physical fitness. Except for insulin-dependent diabetics, an applicant for a school bus driver’s authorization must undergo a biennial physical examination by a certified medical examiner who is listed on the National Registry of Certified Medical Examiners. The applicant must submit annually to the applicant’s employer the signed medical examiner’s certificate (pursuant to Federal Motor Carrier Safety Administration regulations 49 CFR Sections 391.41 to 391.49), indicating, among other requirements, sufficient physical capacity to operate the bus effectively and to render assistance to the passengers in case of illness or injury and freedom from any communicable disease. At the discretion of the chief administrator or designee of the employer or prospective employer, the chief administrator or designee shall evaluate the applicant’s ability in operating a school bus, including all safety equipment, in providing assistance to passengers in evacuation of the school bus, and in performing other duties required of a school bus driver.

ITEM 12. Amend rule 281—43.22(321) as follows:

281—43.22(321) Fee collection and distribution of funds. The department of education, commencing with the biannual school bus inspections for the 2002—2003 school year and each year thereafter, shall assess a fee for semiannual school bus inspections for each school bus or allowable alternative vehicle (pursuant to rule 761—911.7(321)) inspected by the department. The department shall present for payment a fee statement to the owner of each school bus or allowable alternative vehicle inspected. For districts transporting pupils through a private contractor under rule 281—43.3(285), the fee statement shall be presented to the contracting district for payment.

The department of education shall submit an annual budget request for an amount equal to 100 percent of the total projected fees to be collected during the next fiscal year, which shall be based on an amount equal to the number of school bus and allowable alternative vehicle inspections completed during the previous school year multiplied by the inspection fee authorized by statute.

One component of the annual budget shall be an annual “school bus driver and passenger safety education plan.” The plan shall outline the projects and activities to be included during each year. These projects and activities may include, but not be limited to, curriculum development costs, printing and distribution of safety literature and manuals, purchase of equipment used in conducting school bus safety education programs, and other expenditures deemed appropriate by the department of education.

ITEM 13. Amend rule 281—43.23(285) as follows:

281—43.23(285) Application form Driver authorization. The school bus driver and the local board of education or its designee shall submit an application for the school bus driver’s authorization for each of the board’s drivers annually, and upon a form prescribed by the department of education.

ITEM 14. Amend subrules 43.25(1) to 43.25(8) as follows:

43.25(1) Rescinded IAB 12/15/10, effective 1/10/11 Request bids unless the bus is a used or demonstrator bus.

43.25(2) to 43.25(6) No change.
43.25(7) Sign contracts or orders for purchase of school transportation equipment. The purchase agreement must provide that the dealer will deliver equipment which will pass initial state inspection at no further cost to the school and further provide that the school board shall withhold at least $150 until the vehicle passes initial state inspection.

43.25(8) Notify the bureau of nutrition programs and school transportation of the state department of education of purchase and date of delivery so that arrangements can be made for the initial school bus inspection. No school bus can be put into service until it has passed a pre-use inspection conducted pursuant to Form TR-F-27B, documented, and reported by the local board of education and the or its designee on a form which has been provided to the bureau of nutrition programs and school transportation prescribed by the department of education. The initial school bus inspection will be conducted at the earliest possible time convenient to the school and the department of education.

ITEM 15. Amend subrule 43.26(1) as follows:

43.26(1) The board may pay all of the cost of each bus from funds on hand in the general fund or other funds allowed by statute.

ITEM 16. Amend rule 281—43.30(285) as follows:

281—43.30(285) Semiannual inspection. To facilitate the semiannual inspection program, school and school district officials shall send their buses to inspection centers as scheduled. A sufficient number of drivers or other school personnel shall be available at the inspection to operate the equipment for the inspectors. The fee for each vehicle inspected shall be $20 effective July 1, 2005; $25 effective July 1, 2007; and $28 effective July 1, 2009. Effective July 3, 2013, the fee for each vehicle inspected shall be $40 effective July 3, 2013. Effective July 1, 2020, the fee for each vehicle inspected shall be $50.

ITEM 17. Amend rule 281—43.31(285) as follows:

281—43.31(285) Maintenance record. School officials shall cause the chassis of all buses and allowable alternative vehicles, whether publicly or privately owned, to be inspected annually and all necessary repairs made before the vehicle is put into service. The inspection and repairs shall be recorded on a form (TR-F-27A) prescribed by the department of education. The completed form (TR-F-27A) shall be signed by the mechanic and carried in the glove compartment of the bus.

ITEM 18. Amend rule 281—43.34(285) as follows:

281—43.34(285) Contract—privately owned buses. The board of education and a contractor who undertakes to transport school pupils for the board, in privately owned vehicles, shall sign a contract substantially similar to that prescribed by the department of education (Form TR-F-4-497). The contract shall contain that contains, but is not limited to, the following provisions:

43.34(1) To furnish and operate at the contractor’s own expense a legally approved vehicle of transportation (or a legally approved chassis on which may be mounted a school bus body supplied and maintained by the board of education) to and from the ______________ school each day beginning on the date set by the board over route as described ______________, transporting only children attending the school designated by the board of education.

43.34(2) No change.

43.34(3) To comply with all uniform standards, established for protection of health and safety for pupils transported.

43.34(4) To comply with all rules and regulations adopted by the board of education for the protection of the children, or to govern the conduct of the driver of bus.

43.34(5) and 43.34(6) No change.

43.34(7) To see that the bus is swept and the windows cleaned each day and that registration plates and all lights are cleaned before each trip. Further, that the bus is washed and the floor swept and scrubbed with a good disinfectant each week. In case of an epidemic the entire bus shall be washed with a disinfectant.

43.34(8) to 43.34(12) No change.
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43.34(13) That use the school bus shall be used only for transporting regularly enrolled students to and from public school and to extracurricular activities approved and designated by the board of education and further to comply with all legal restrictions on use of bus.

43.34(14) To obtain, if possible, the registration license plate numbers of all cars vehicles violating the school bus passing law, Iowa Code section 321.372, and file information for prosecution.

43.34(15) The board of education hereby reserves the right to change routing of the bus and, if additional mileage is required, it shall be at no charge. per additional mile. If shortened, .

43.34(16) immoral To ensure immoral conduct or the use of alcoholic beverages by the contractor or driver employed by the contractor shall result in appropriate sanctions as provided in Iowa Code section 321.375.

43.34(17) Contract may To allow the contract to be terminated on 90-day notice by either party, as provided by Iowa Code section 285.5(4).

43.34(18) The contractor agrees An agreement that, if the contractor desires to terminate the contract, the school bus will be sold to the board of education at its request as provided in Iowa Code section 285.5(1). (This requirement does not apply to a passenger auto vehicle used as a school bus.)

ITEM 19. Amend rule 281—43.35(285) as follows:

281—43.35(285) Contract—district-owned buses. The board of education and a private individual undertaking to transport school pupils for the board in district-owned vehicles shall sign a contract substantially similar to that prescribed by the department of education (Form TR-F-5-497(revised)). The contract shall contain the following provisions:

43.35(1) No change.

43.35(2) To make reports as may be required by the state department of education, area education agency, or superintendent of schools.

43.35(3) and 43.35(4) No change.

43.35(5) To attend a school of instruction for bus drivers as prescribed by the bureau of transportation and school transportation of the department of education.

43.35(6) No change.

43.35(7) That this the contract shall not be in force until the driver presents an official school bus driver’s authorization.

ITEM 20. Rescind and reserve rule 281—43.36(285).

ITEM 21. Amend rule 281—43.37(285) as follows:

281—43.37(285) Railroad crossings. The driver of any school bus shall bring the bus to a complete stop at all within 50 feet, but not less than 15 feet, from railroad crossings, as required in Iowa Code section 321.343, regardless of whether or not there are any pupils in the bus, and regardless of whether or not there is an automatic signal at the crossing. After stopping, the driver shall open the front door, shall look and listen for approaching trains, and shall not proceed to cross the tracks until it is safe to do so.

ITEM 22. Amend rule 281—43.38(285) as follows:

281—43.38(285) Driver restrictions.

43.38(1) The driver of a school bus vehicle shall not smoke on the bus in the vehicle or on any school property.

43.38(2) The driver shall not permit firearms or other weapons, nor ammunition, to be carried in the bus passenger compartment of any school vehicle transporting pupils.

43.38(3) The driver shall not fill the fuel tank while the motor is running or when there are passengers on the bus in the vehicle.

43.38(4) No change.
ITEM 23. Amend subrules 43.39(3) to 43.39(5) as follows:

43.39(3) All such projects, except an actual emergency operation where time is of the essence, shall have prior approval of the state department of education.

43.39(4) 43.39(3) The bus shall be driven by an approved driver holding an appropriate driver’s license and a regular school bus driver’s authorization except that in actual emergency situations, where regular approved drivers are not available, certain other drivers, including students and teachers, may be used providing the following conditions are met if allowed by local school board policy. The driver shall:

a. Be approved by the local board of education.

b. Be at least 18 years of age, be physically and mentally competent, and not possess personal or moral habits which would be detrimental to the best interests of the safety and welfare of the children transported.

43.39(5) Rescinded IAB 12/8/04, effective 1/12/05.

ITEM 24. Amend rules 281—43.40(285) to 281—43.44(285) as follows:

281—43.40(285) Pupil instruction. At least twice during each school year, once in the fall and once in the spring, each pupil who is transported in a school vehicle shall be instructed in safe riding practices and participate in emergency evacuation drills. Documentation of these drills shall be maintained locally for five years and made available upon request.

281—43.41(285) Trip inspections. A pretrip inspection of each school bus shall be performed and recorded prior to each trip. A written report shall be submitted promptly to the superintendent of schools, transportation supervisor, school bus mechanic, or other person charged with the responsibility for the school transportation program, if any defects or deficiencies are discovered that may affect the safety of the vehicle’s operation or result in its mechanical breakdown. A posttrip inspection of the interior of the school bus shall be performed after each trip.

43.41(1) A pretrip inspection of each school vehicle shall be performed and recorded prior to each trip to determine if any defects or deficiencies exist that may affect the safety of the vehicle’s operation or result in its mechanical breakdown. The pretrip inspection report shall be signed by the driver and submitted promptly to the superintendent of schools, transportation supervisor, school bus mechanic, or other person charged with the responsibility for the school transportation program. Any defects or deficiencies that merit an OOS (out of service) rating pursuant to department of education school bus inspection guidelines must be repaired prior to use of the vehicle. All other defects or deficiencies should be repaired as soon as possible but do not prohibit the use of the vehicle.

43.41(2) A posttrip inspection of the interior of the school vehicle shall be performed after each trip to ensure no passengers remain.

281—43.42(285) Loading and unloading areas. Restricted loading and unloading areas shall be established for school buses at, or near schools.

281—43.43(285) Communication equipment. Each school bus shall have a two-way communications system or cellular telephone capable of emergency communication between the driver of the bus and the school’s base of operations for school transportation.

281—43.44(285) Standards for common carriers. These standards are intended to apply to any vehicle operated by a common carrier when used exclusively for student transportation to and from school. “Common carrier” refers to a person or entity in the business of transporting goods or people for hire as a public service.

43.44(1) Vehicles.

a. No change.

b. The vehicles shall, while transporting children to and from school, be equipped with temporary signs, located conspicuously on the front and back of the vehicle. The sign on the front shall have the
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words “School Bus” printed in black letters not less than six inches high, on a background of national school bus glossy yellow. National School Bus Yellow. The sign on the rear shall be at least ten square feet in size and shall be painted national school bus glossy yellow. National School Bus Yellow, and have the words “School Bus” printed in black letters not less than eight inches high. The yellow is to be in accordance with the colorimetric specification of Federal Standard No. 595a, Color 13432; the black matching Federal Standard 595a, Color 17038. Both the six-inch and eight-inch letters shall be Series “D” as specified in the Standard Alphabet—Federal Highway Administration, 1966. The colors shall conform to those described within 281—subrule 44.3(10).

e. Rescinded, effective 8/11/82.

43.44(2) No change.

43.44(3) Seating. Each passenger shall have a seat; standees are prohibited.
   a. Each passenger shall have a comfortable seat.
   b. Standees are prohibited.

43.44(4) Loading and unloading procedures.
   a. Vehicle. The vehicle shall pull close enough to the curb to prevent another vehicle from passing on its right side.
   b. If the vehicle is not equipped with flashing warning lights and stop arm, or if use of this equipment is prohibited by law, the pupils, on unloading, shall be instructed to remain at the curb until the bus has pulled away and it is safe for them to cross the street.

43.44(5) Inspection of vehicles.
   a. Drivers shall be required to perform daily pretrip inspections of their vehicles and to determine if any defects or deficiencies exist that may affect the safety of the vehicle’s operation or result in its mechanical breakdown. The pretrip inspection report promptly and in writing any defects or deficiencies discovered that may affect the safety of the vehicle’s operation or result in its mechanical breakdown in accordance with rule 281—43.44(285) shall be submitted promptly to the person charged with maintenance of the vehicle. Any defects or deficiencies that merit an OOS (out of service) rating pursuant to department of education school bus inspection guidelines must be repaired prior to use of the vehicle. All other defects or deficiencies should be repaired as soon as possible but do not prohibit the use of the vehicle.
   b. No change.

43.44(6) Other requirements.
   a. No change.
   b. The carrier shall make a report to the bureau of nutrition and school transportation of the department of education on any accident involving property damage or personal injury while a vehicle is being used as a school bus. The report shall be made on the Iowa Accident Report Form.
   e b. Student instruction for passenger safety shall be the responsibility of the local school district as specified in rule 281—43.40(285).

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EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to school bus construction standards and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 44, “School Buses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).
**State or Federal Law Implemented**

This rule making implements, in whole or in part, Iowa Code sections 285.8 and 321.373.

**Purpose and Summary**

Chapter 44 outlines the construction standards for school buses used in Iowa. The proposed amendments to Chapter 44 reflect changes to these standards as recommended by the National School Transportation Specifications and Procedures Manual 2015 and the Department of Education’s Chapter 44 Update Group and in requests from the field.

All references to “FMVSS” pertain to Federal Motor Vehicle Safety Standards. This abbreviation is identified in rule 281—44.1(285).

**Fiscal Impact**

This rule making has no fiscal impact to the State of Iowa. However, certain specifications may result in an increased cost of school buses used in the state. This may, in turn, impact local school transportation costs, which are referenced when determining distribution of transportation equity funding under Iowa Code section 257.16C, open enrollment transportation assistance under Iowa Code section 282.18(10)“c,” and nonpublic transportation reimbursement under Iowa Code section 285.1(12).

The estimated cost for adding a 3-point lap-shoulder belt, per seating position, is $123. The average capacity per school bus purchased in Iowa, based on reported information for full model years 2016 through 2018, was 68. Based on these estimates, the additional cost to equip an average school bus with 3-point lap-shoulder belts would be approximately $8,364.

**Jobs Impact**

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

**Waivers**

An agencywide rule waiver provision is provided for in 281—Chapter 4.

**Public Comment**

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Nicole Proesch  
General Counsel  
Department of Education  
Grimes State Office Building, Second Floor  
Des Moines, Iowa 50319-0416  
Phone: 515.281.8661  
Fax: 515.242.5988  
Email: nicole.proesch@iowa.gov

**Public Hearing**

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

June 25, 2019  
10 to 11 a.m.  
State Board Room, Second Floor  
Grimes State Office Building  
East 14th Street and Grand Avenue  
Des Moines, Iowa
Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

**ITEM 1.** Amend rule 281—44.2(285) as follows:

**281—44.2(285) School bus—type classifications.** A bus owned, leased, contracted to or operated by a school or school district and regularly used to transport students to and from school or school-related activities, but not including a charter bus or transit bus, meets all applicable FMVSS, and is readily identified by alternately flashing lights, *national school bus yellow* National School Bus Yellow (NSBY) paint, and the legend “School Bus.” Schools and school districts in Iowa are prohibited from owning or leasing motor coaches, but may charter them for activities.

44.2(5) Type III. Type III vehicles are not regular school buses but nonetheless are used to transport students in a school-related context and may be marked as a “school bus.” A Type III vehicle is a passenger car (including a minivan, SUV, or station wagon) or van. The difference between a family automobile and an equivalent Type III vehicle is not the vehicle itself, but rather its use. Type III vehicles are used by schools for purposes of pupil transportation. To qualify as a Type III vehicle, the vehicle must carry a maximum of nine or fewer people, including the driver, and weigh 10,000 pounds or less. These vehicles will be subject to school bus inspections per Iowa Code and rule requirements.

44.2(6) No change.

44.2(7) Multifunction school activity bus (MFSAB). A multifunction school activity bus is a school bus whose purposes do not include transporting students to and from home or school bus stops as defined in 49 CFR 571.3. MFSABs meet all FMVSS for school buses except the traffic control requirements (alternately flashing signal and stop arm). MFSABs are not allowed for use by schools or school districts in the state of Iowa. These vehicles will be subject to school bus inspections per Iowa Code and rule requirements.

**ITEM 2.** Amend rule 281—44.3(285) as follows:

**281—44.3(285) School bus body and chassis specifications.**

44.3(1) and 44.3(2) No change.

44.3(3) Alternator:

a. All alternators shall be a minimum of 130 amperes while maintaining a minimum of 50 amperes while at the manufacturer’s suggested idle speed.

b. All Type C and Type D buses shall be equipped with a heavy-duty truck or bus-type alternator meeting SAE J1180 or incorporating a pad-type mounting.

44.3(4) 44.3(3) Axles.

a. The front and rear axle and suspension systems shall have gross axle weight rating (GAWR) at ground commensurate with the respective front and rear weight loads that will be imposed by the bus.
b. The front axles on Type B, C and D buses shall be equipped with a wet hub-type lubrication system.

44.3(5) 44.3(4) Backup warning alarm. An automatic audible alarm shall be installed behind the rear axle on every school bus/vehicle and shall comply with the published Backup Alarm Standards (SAE J994B), providing a minimum of 112 dBA. A variable volume feature is not allowed.

44.3(6) Battery compartment.

a. Battery(ies) shall be furnished by the manufacturer.

b. Battery(ies) shall be mounted in the body skirt of the vehicle and shall be accessible for convenient servicing from outside the bus. The manufacturer shall securely attach the battery(ies) on a slide-out or swing-out tray with a safety stop to prevent the battery(ies) from dropping to the ground at the outermost extremity of tray travel.

c. The battery compartment door or cover shall be hinged at the top, bottom or forward side of the door. When hinged at the top, a fastening device shall be provided which will secure the door in an open position. The door or cover over the compartment opening shall completely cover and, as completely as practical, seal the opening and shall be secured by an adequate and conveniently operated latch or other type of fastener to prevent free leakage of the battery contents into the passenger compartment should the vehicle overturn. Battery cables installed by the manufacturer shall meet SAE requirements. Battery cables shall be of sufficient length to allow the battery tray to fully extend and to allow some slack in the cables. In Type A buses, if batteries cannot be installed under the hood, a battery compartment is required.

d. The top surface area of the inside of the battery compartment (the area likely to come into contact with battery electrical terminals as the result of a blow to, and upward collapse of, the bottom of the battery box in the event of an accident or other event) shall be covered with a rubber matting or other impact resistant nonconductive material. The matting shall be a minimum of 1/8-inch thick and cover the entire top inside surface of the battery box. The matting shall be securely installed to maintain its position at all times.

e. The word “BATTERY” in 2-inch black letters shall be placed on the door covering the battery opening.

44.3(7) Battery system. A 12 volt battery system tested at 0 degrees Fahrenheit shall be provided which meets or exceeds the following capacity ratings:

a. Gasoline engines (greater than 10,000 pounds GVWR): 150 minutes reserve and 500 cold cranking ampere capacity.

b. Gasoline engines (10,000 pounds GVWR or less): 125 minutes reserve and 450 cold cranking ampere capacity.

c. Diesel engines (all): 200 minutes reserve and 1,000 cold cranking ampere capacity, or a cold cranking ampere capacity not less than the engine manufacturer’s minimum requirements, whichever is greater.

44.3(8) 44.3(5) Body sizes. Type A vehicles may be purchased with manufacturer’s recommended seating capacities when the chassis is manufactured with rear dual tires.

44.3(9) 44.3(6) Brakes.

a. Brakes, all, general requirements.

(1) The chassis brake system shall conform to the provisions of FMVSS No. 105, Hydraulic and Electric Brake Systems, No. 106, Brake Hoses, and No. 121, Air Brake Systems, as applicable. All buses shall have either a parking pawl in the transmission or a parking brake interlock that requires the service brake to be applied to allow release of the parking brake.

(2) The antilock brake system (ABS), provided in accordance with FMVSS No. 105 or No. 121, shall provide wheel speed sensors for each front wheel and for each wheel on at least one rear axle. The system shall provide antilock braking performance for each wheel equipped with sensors (Four Channel System).

(3) All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis component(s).
(4) The brake lines, booster-assist lines, and control cables shall be protected from excessive heat, vibration and corrosion and installed in a manner which prevents chafing.

(5) The parking brake system for either air or hydraulic service brake systems may be of a power-assisted design. The power parking brake actuator should be a device located on the instrument panel within reach of a seated 5th percentile female driver. As an option, the parking brake may be set by placing the automatic transmission shift control mechanism in the “park” position.

(6) The power-operated parking brake system may be interlocked to the engine key switch. Once the parking brake has been set and the ignition switch turned to the “off” position, the parking brake cannot be released until the key switch is turned back to the “on” position.

b. **Hydraulic brakes, general requirements.** Buses using a hydraulic-assist brake shall be equipped with audible and visible warning signals that provide a continuous warning to the driver indicating a loss of fluid flow from the primary source or a failure of the backup pump system meet requirements of FMVSS No. 105.

c. **Air brakes, general requirements.**

(1) The air pressure supply system shall include a desiccant-type air dryer installed according to the manufacturer’s recommendations. The air pressure storage tank system may incorporate an automatic drain valve.

(2) The manufacturer shall provide an accessory outlet for other air-operated systems installed in or on the bus. This outlet shall include a pressure protection valve to prevent loss of air pressure in the service brake reservoir.

(3) For air brake systems, an air pressure gauge capable of complying with commercial driver’s license (CDL) pretrip inspection requirements shall be provided in the instrument panel.

(4) All air brake-equipped buses may be equipped with a service brake interlock. If the bus is equipped with a service brake interlock, the parking brake cannot be released until the brake pedal is depressed.

(5) Air brake systems shall include a system for anticomponding of the service brakes and parking brakes.

(6) Air brakes shall have a warning device that is both visible and audible and that provides warning to the driver whenever the air pressure falls below the level where warnings are required under FMVSS No. 121.

d. **Brakes, all, specific requirements.**

(1) The braking system shall include the service brake, an emergency brake that is part of the service brake system and controlled by the service brake pedal, and a parking brake meeting FMVSS at date of manufacture.

(2) Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals readily audible and visible to the driver. The signal shall give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less or the vacuum available in the system for braking is 8 inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver the air pressure in psi or the inches of mercury available for the operation of the brakes.

(3) Buses using a hydraulic assist brake system shall be equipped with warning signals readily audible and visible to the driver. The warning signal shall provide continuous warning in the event of a loss of fluid flow from primary source and in the event of discontinuity in that portion of the vehicle electrical system that supplies power to the backup system.

(4) Brake system reservoirs.

1. Every brake system which employs air or vacuum shall include a reservoir of the following capacity, where applicable, for brake operation: Vacuum-assist brake systems shall have a reservoir used exclusively for brakes that shall adequately ensure a full-stroke application so that loss in vacuum shall not exceed 30 percent with the engine off. Brake systems on gas-powered engines shall include suitable and convenient connections for the installation of a separate vacuum reservoir.
2. Any brake system with a dry reservoir shall be equipped with a check valve or equivalent device to ensure that, in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure.

3. Connection for auxiliary accessory reservoir. The brake system shall include a suitable and convenient connection for installation of an auxiliary air or vacuum reservoir by the bus manufacturer.

(4) An air brake system is required on every chassis meeting one or more of the following:
1. Wheelbase equal to or greater than 274 inches.
2. Designed seating capacity rating greater than 66 passengers. Designed seating capacity, also known as manufacturer’s seating capacity, is the actual or theoretical passenger capacity of the vehicle if it were constructed with the maximum number of seating positions.

(5) An air brake system shall comply with the following system and component designs:
1. The system cannot be of wedge design.
2. The system shall include an air dryer system having design features equal to or exceeding the Bendix Westinghouse Model AD9. The system shall be self-purging and capable of removing oil, dirt, and moisture. The dryer system shall also be equipped with a heater to prevent the freezing of moisture within the system. All plumbing from air compressor to input of air dryer or after-cooler shall provide soft flow bends not producing sumps in the air compressor line having direct entry into the dryer. An automatic moisture ejector or “spitter valve” does not meet the above requirement.
3. Automatic slack adjusters are a system of automatic adjustment compensating for service brake wear is required to be installed at all wheel positions.

4. The air compressor shall produce a minimum output of 12.0 cubic feet per minute (CFM).

(6) Vehicles with 10,000 pounds GVWR or less shall be equipped with a hydraulic, dual-braking system of manufacturer’s standard, with power assist.

(7) Antilock brake systems for either air or hydraulic brakes shall include control of all axles in compliance with FMVSS No. 105 or No. 121.

44.3.10 44.3.7 Bumper, front.

a. All school buses shall be equipped with a front bumper painted glossy black, a chrome front bumper, or a front bumper coated with a black corrosion-resistant textured material.

b. The front bumper on buses of Type A-2 (with GVWR greater than 14,500 pounds), Type B, Type C, and Type D shall be equivalent in strength and durability to pressed steel channel at least 3/16 inches thick and not less than 8 inches wide (high). The front bumper shall extend beyond the forward-most part of the body, grille, hood and fenders and shall extend to the outer edges of the fenders at the bumper’s top line. Type A buses having a GVWR of 14,500 pounds or less may be equipped with an original equipment manufacturer (OEM)-supplied front bumper. The front bumper shall be of sufficient strength to permit its being pushed by another vehicle on a smooth surface with a 5 degree (8.7 percent) grade, without permanent distortion to the bumper, chassis or body. The contact point on the front bumper is intended to be between the frame rails, with as wide a contact area as possible. If the front bumper is used for lifting, the contact points shall be under the bumper attachments to the frame rail brackets unless the manufacturer specifies different lifting points in the owner’s manual. Contact and lifting pressures should be applied simultaneously at both lifting points.

c. The front bumper, except breakaway bumper ends, shall be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight, per paragraph 44.3.10 “a.” “b.” “d.” without permanent distortion to the bumper, chassis or body.

d. The bumper shall be designed or reinforced so that it will not deform when the bus is lifted by a chain that is passed under the bumper (or through the bumper if holes are provided for this purpose) and attached to both tow hooks/eyes. For the purpose of meeting this specification, the bus shall be empty and positioned on a level, hard surface and both tow hooks/eyes shall share the load equally.

e. Tow eyes or hooks are required on Type B, C, and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks shall be installed by the bus manufacturer so as not to project beyond the front bumper.

f. An optional energy-absorbing front bumper may be used, provided its design incorporates a self-restoring, energy-absorbing system of sufficient strength to:
(1) Push another vehicle of similar GVWR without permanent distortion to the bumper, chassis, or body; and

(2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:

1. 7.5 mph fixed-barrier impact (FMVSS cart and barrier test).
2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
3. 20.0 mph into parked passenger car (Type B, C, and D buses of 18,000 pounds GVWR or more).

The manufacturer of the energy-absorbing bumper system shall provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

**44.3(11) 44.3(8) Bumper, rear:**

a. All school buses shall be equipped with a rear bumper painted glossy black or coated with a black corrosion-resistant texturized material.

b. The rear bumper shall be pressed steel channel or equivalent material, at least 3/16 inches thick and shall be a minimum of 8 inches wide (high) on Type A-2 vehicles and a minimum of 9½ inches wide (high) on Type A-1, B, C and D buses. The rear bumper shall be of sufficient strength to permit its being pushed by another vehicle without permanent distortion to the bumper, body, or chassis.

c. The rear bumper shall be wrapped around the back corners of the bus. It shall extend forward at least 12 inches, measured from the rear-most point of the body at the floor line and shall be flush-mounted to the body side or protected with an end panel.

d. The rear bumper shall be attached to the chassis frame in such a manner that the bumper may be easily removed. It shall be braced so as to resist deformation of the bumper resulting from a rear side impact. It shall be designed so as to discourage the hitching of rides.

e. The bumper shall extend at least 1 inch beyond the rear-most part of body surface measured at the floor line.

f. Additions or alterations to the rear bumper, including the installation of trailer hitches, are prohibited.

g. An optional energy-absorbing rear bumper may be used, provided a self-restoring, energy-absorbing bumper system attached to prevent the hitching of rides is of sufficient strength to:

(1) Permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body; and

(2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following FMVSS performance standards:

1. 2.0 mph fixed barrier impact (FMVSS cart and barrier test).
2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
3. 5.0 mph center impact (Part 581, CFR Title 49).

The manufacturer of the energy-absorbing system shall provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

**44.3(12) 44.3(9) Certification.** The manufacturer(s) shall, upon request, certify to the Iowa department of education that the manufacturer’s product(s) meets Iowa minimum standards on items not covered by FMVSS certification requirements of 49 CFR Part 567.

**44.3(13) 44.3(10) Color:**

a. Chassis shall be black. Body cowl, hood, and fenders shall be national school bus yellow National School Bus Yellow. The flat top surface of the hood may be nonreflective national school bus yellow National School Bus Yellow; black is not acceptable.

b. Wheels and rims shall be gray, black, or national school bus yellow National School Bus Yellow. Aluminum wheels are also allowed.

c. The grille must be gray, black, or national school bus yellow National School Bus Yellow. Chrome is not acceptable.

d. The school bus body shall be painted national school bus yellow National School Bus Yellow. (See color standard, Appendix B, National School Transportation Specifications and Procedures Manual 2010, available from Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093 2015.)
e. The body exterior trim shall be glossy black, including the rear bumper, exterior lettering, numbering, body trim, rub rails, lamp hoods (if any), and emergency door arrow. This may also include the entrance door and window sashes. As an alternative, the rear bumper may be covered with a black retroreflective material as described in subrule 44.3(52) 44.3(51). When the bus number is placed on the front or rear bumper, the number shall be national school bus yellow National School Bus Yellow.

f. As an option, the roof of the bus may be painted white extending down to within 6 inches above the drip rails on the sides of the body, except that the vertical portion of the front and rear roof caps shall remain national school bus yellow National School Bus Yellow.

g. Commercial advertising is forbidden on the exterior and in the interior of all school buses.

44.3(14) 44.3(11) Construction.

a. The school bus body shall be constructed of materials certified to be durable under normal operating conditions and shall meet all applicable FMVSS at the date of manufacture as certified by the bus body manufacturer.

b. Construction shall be reasonably dustproof and watertight.

c. Body joints present in that portion of the Type A school bus body furnished exclusively by the body manufacturer shall conform to the performance requirements of FMVSS No. 221. This does not include the body joints created when body components are attached to components furnished by the chassis manufacturer.

d. A flat floor system featuring no wheel wells and no step-up at the rear of the passenger compartment may be used in accordance with the following:

1. The inside height of the body shall remain at least 72 inches, when measured in accordance with subrule 44.3(41) 44.3(40), when this option is installed.

2. If this option utilizes a raised floor that is stepped up behind the driver’s area, the forward edge of the aisle shall have a white or yellow stripe and be labeled “Step Up” visible to passengers upon entering the aisle; and a label “Step Down” shall be visible to passengers as they exit the aisle. Minimum headroom of 72 inches shall be maintained at all times.

3. A flat floor design shall provide for the additional option for a track-mounted seating system using button-type (L track) and a wheelchair securement system meeting Iowa specifications but mounting into the track of the track-seating system. Aisle clearances shall be maintained in accordance with these rules.

44.3(15) 44.3(12) Crossing control arms.

a. Type A, B, and C school buses shall be equipped, and Type D buses may be equipped, with a crossing control arm which is mounted on the right side of the front bumper and which shall not open more than 90 degrees. This requirement does not apply to Type D vehicles having transit style design features. When opened, the crossing control arm shall extend in a line parallel to the body side and aligned with the right front wheel.

b. The crossing control arm shall incorporate a system of quick-disconnect connectors (electrical, vacuum, or air) at the crossing control arm base unit and shall be easily removable to allow for towing of the bus.

c. All components of the crossing control arm and all connections shall be weatherproofed.

d. The crossing control arm shall be constructed of noncorrodible or nonferrous material or treated in accordance with the body sheet metal standard. See subrule 44.3(42) 44.3(41).

e. There shall be no sharp edges or projections that could cause hazard or injury to students.

f. The crossing control arm shall extend a minimum of 70 inches from the front bumper when in the extended position. This measurement shall be taken from the arm assembly attachment point on the bumper. However, the crossing control arm shall not extend past the ends of the bumper when in the stowed position.

g. The crossing control arm shall extend simultaneously with the stop arm(s) by means of the stop arm controls.

h. The crossing control arm system shall be designed to operate in extreme weather conditions, including freezing rain, snow and temperatures below 0 degrees Fahrenheit, without malfunctioning. The
crossing control arm itself shall be constructed of a material that will prevent the arm from prematurely extending or from failing to retract due to sustained wind or wind gusts of up to 40 miles per hour.

i. To ensure that the unit mounts flush and operates properly, the chassis bumper mounting bracket must be designed for the specific model chassis on which it will be mounted.

j. A single, cycle-interrupt switch with automatic reset shall be installed in the driver’s compartment and shall be accessible to the driver from the driver’s seat.

k. The assembly may include a device attached to the bumper near the end of the arm to automatically retain the arm while in the stowed position. That device shall not interfere with normal operations of the crossing control arm.

44.3(16) 44.3(13) Daytime running lights (DRL). See subrule 44.3(33) 44.3(32).

44.3(17) 44.3(14) Defrosters.

a. Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the interior surfaces of the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog and snow.

b. The defrosting system shall conform to SAE Standard J381.

c. The defroster and defogging system shall be capable of furnishing heated outside ambient air; however, the part of the system furnishing additional air to the windshield, entrance door and step well may be of the recirculating air type.

d. Auxiliary fans are required; however, they are not considered defrosting or defogging systems.

See also subrule 44.3(80) 44.3(78).

e. Portable heaters shall not be used.

44.3(18) 44.3(15) Doors and exits.

a. Service door.

(1) The service door shall be heavy-duty power- or manually operated under the control of the driver and shall be designed to afford easy release and prevent accidental opening. When a hand lever is used, no parts shall come together to shear or crush fingers. Manual door controls shall not require more than 25 pounds of force to operate at any point throughout the range of operation. A power-operated door must provide for manual operation in case of power failure. In all instances, the power-operated door control shall be located in the steering wheel or to the right of the driver.

(2) The primary service door shall be located on the right side of the bus opposite the driver and within the driver’s direct view and shall remain closed anytime the vehicle is in motion.

(3) The service door shall have a minimum horizontal opening of 24 inches and a minimum vertical opening of 68 inches. Type A vehicles shall have a minimum opening of 1,200 square inches.

(4) The service door shall be of split or jackknife type. (Split door includes any sectioned door which divides and opens inward or outward.) If one section of the split door opens inward and the other opens outward, the front section shall open outward. The entrance door shall be a split-type door and shall open outward.

(5) Lower as well as upper panels shall be of approved safety glass. The bottom of each lower glass panel shall not be more than 10 inches from the top surface of the bottom step. The top of each upper glass panel shall not be more than 3 inches from the top of the door.

(6) The upper window panels of the service door shall be of insulated double glass. This standard applies to all vehicles equipped with a service door as described in paragraph 44.3(18)’a.’

(7) Vertical closing edges on split or folding entrance doors shall be equipped with flexible material to protect children’s fingers.

(8) There shall be no door to the left of the driver on Type B, C or D vehicles. All Type A vehicles may be equipped with the chassis manufacturer’s standard left side (driver’s side) door.

(9) All doors shall be equipped with padding at the top edge of each door opening. Padding shall be at least 3 inches wide and 1 inch thick and shall extend horizontally the full width of the door opening.

(10) Door hinges shall be secured to the body without the use of metal screws.

(11) There shall be no grab handle installed on the exterior of the service door.
(12) (10) A door-locking mechanism may be installed in accordance with subrule 44.3(79) 44.3(77).

(13) (11) On power-operated service doors, the emergency release valve, switch or device to release the service door must be placed above the service door, to the right side of the driver console, or to the left or right of the service door and be clearly labeled. The emergency release valve, switch or device shall work in the absence of power.

b. Emergency doors.

(1) Emergency door(s) and other emergency exits shall comply with the requirements of FMVSS No. 217 and any of the requirements of these rules that exceed FMVSS No. 217.

(2) The upper portion of the emergency door shall be equipped with approved safety glazing, the exposed area of which shall be at least 400 square inches. The lower portion of the rear emergency doors on Type A, 2, B, C and D vehicles shall be equipped with a minimum of 350 square inches of approved safety glazing. The exposed area of the upper panel of emergency doors shall be a minimum of 400 square inches of approved safety glazing. If installed, all other glass panels on emergency doors shall be of approved safety glazing.

(3) There shall be no steps leading to an emergency door.

(4) The emergency door(s) shall be equipped with padding at the top edge of each opening. Padding shall be at least 3 inches wide and 1 inch thick and shall extend the full width of the door opening.

(5) There shall be no obstruction higher than ¼ inch across the bottom of any emergency door opening. Fasteners used within the emergency exit opening shall be free of sharp edges or burrs.

c. Emergency exit requirements.

(1) Any installed emergency exit shall comply with the design and performance requirements of FMVSS No. 217, Bus Emergency Exits and Window Retention and Release, applicable to that type of exit, whether or not that exit is required by FMVSS No. 217, and shall comply with any of the requirements of these rules that exceed FMVSS No. 217.

(2) An emergency exit may include either an emergency door or emergency exit-type windows. Where emergency exit-type windows are used, they shall be installed in pairs, one on each side of the bus. Type A, B, C, and D vehicles shall be equipped with a total number of emergency exits as follows for the designed capacities of vehicles:

1. 0 to 42 passengers = 1 emergency exit per side and 1 roof hatch.
2. 43 to 78 passengers = 2 emergency exits per side and 2 roof hatches.
3. 79 to 90 passengers = 3 emergency exits per side and 2 roof hatches.

These emergency exits are in addition to the rear emergency door or rear pushout window/side emergency door combination required by FMVSS No. 217. Additional emergency exits installed to meet the capacity-based requirements of FMVSS No. 217 may be included to comprise the total number of exits specified. All roof hatches shall have design features as specified in subrule 44.3(80) 44.3(78).

(3) Side and rear emergency doors and each emergency window exit shall be equipped with an audible warning device.

(4) Roof hatches shall be equipped with an audible warning device and shall work appropriately without the wiring becoming disconnected from the switch.

(5) Rear emergency windows on Type D rear-engine buses shall have a lifting-assistance device that will aid in lifting and holding the emergency window open.

(6) Side emergency windows may be either top-hinged or vertically hinged on the forward side of the window. No side emergency exit window will be located above a stop sign.

(7) On the inside surface of each school bus, located directly beneath or above all emergency doors and windows, shall be a "DO NOT BLOCK" label in a color that contrasts with the background of the label. The letters on this label shall be at least 1 inch high.

44.3(19) 44.3(16) Drive shaft. The drive shaft shall be protected by a metal guard or guards around the circumference of the drive shaft to reduce the possibility of its whipping through the floor or dropping to the ground if broken.

44.3(20) 44.3(17) Driver’s compartment.
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a. The driver’s seat supplied by the body company shall be a high-back seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile adult male, as defined in FMVSS No. 208. The driver’s seat shall be secured with nuts, bolts, and washers or flange-headed nuts.

b. The driver’s seat positioning and range of adjustments shall be designed to accommodate comfortable actuation of the foot control pedals by 95 percent of the male and female adult population.

c. See also subrule 44.3(56) 44.3(55).

d. A driver’s document compartment or pouch shall be provided. The document compartment or pouch shall measure at least 17 inches x 12 inches x 4 inches. If a document pouch, rather than a covered compartment, is provided, it shall be located on the barrier behind the driver. It shall be constructed of a material of equal durability to that of the covering on the barrier and shall have a lid or cover with a latching device to hold the cover or lid closed.

e. A manual noise suppression switch shall be required and located in the control panel within easy reach of the driver while seated. The switch shall be labeled. This switch shall be an on/off type that deactivates body equipment that produces noise, including, at least, the AM/FM radio, heaters, air conditioners, fans, and defrosters. This switch shall not deactivate safety systems, such as windshield wipers, lighting systems, or two-way radio communication systems. Mobile data terminals are allowed. Programs loaded on the data terminal shall be specific to school bus operations such as, but not limited to, passenger accountability, routing, navigation, emergency notification, tracking, messaging, and equipment monitoring.

(1) The data terminal shall be mounted within the driver’s compartment in a location which allows the driver to see the data terminal display screen at a glance, but shall not obstruct the driver’s view in any direction when the driver is seated in a normal driving position. This would include, but not be limited to, impeding the view of the road, mirrors, highway signs, signals, other instruments, entrance door, and passengers. The data terminal display screen and audio turn-by-turn instructions may remain active while the bus is in motion.

(2) Overhead mounting of the data terminal is not allowed. The device shall not impede space within the aisle, nor shall it be mounted in such a way as to be a snagging hazard in the student loading area of the service door.

(3) The data terminal shall be securely mounted to the vehicle when in use in such a way as to minimize sharp edges. The device may be removed when not in use.

(4) The data terminal shall not be connected to the passenger compartment sound system.

(5) Distractive manipulation of a data terminal is prohibited while the school bus is being driven. For the purposes of this subparagraph, “driven” means operating a school bus, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays such as picking up or discharging students. “Driven” does not include operating a school bus, with or without the motor running, when the school bus is legally stopped or parked upon the highway for a prolonged period of time.

f. Commercially produced pedal blocks are allowed.

44.3(21) 44.3(18) Electrical system. See subrule 44.3(85).

a. Battery.

(1) The storage batteries shall have a minimum cold cranking capacity rating (cold cranking amps) equal to the cranking current required for 30 seconds at 0 degrees Fahrenheit and a minimum reserve capacity rating of 120 minutes at 25 amps. Higher capacities may be required, depending upon optional equipment and local environmental conditions.

(2) The manufacturer shall securely attach the battery on a slide-out or swing-out tray in a closed, vented compartment in the body skirt or chassis frame so that the battery is accessible for convenient servicing from the outside. When in the stored position, the tray shall be retained by a securing mechanism capable of holding the tray (with battery[ies]) in position when subjected to a 5g load from any direction. The battery compartment door or cover, if separate from the tray, shall be hinged at the front or top. It shall be secured by a positive operated latching system or other type fastener. The door may be an integral part of the battery slide tray. The door or cover must fit tightly to the body and not
present sharp edges or snagging points. Battery cables shall meet Society of Automotive Engineers (SAE) requirements. Battery cables shall be of sufficient length to allow the battery tray to fully extend. Any chassis frame-mounted batteries shall be relocated to a battery compartment on Type A buses.

(3) All batteries are to be secured in a sliding tray except that on van conversion or cutaway front-section chassis, batteries may be secured in accordance with the manufacturer’s standard configuration. In these cases, the final location of the battery and the appropriate cable lengths shall be agreed upon mutually by the chassis and body manufacturers. However, in all cases, the battery cable provided with the chassis shall have sufficient length to allow some slack and shall be of sufficient gauge to carry the required amperage.

(4) The top surface area of the inside of the battery compartment (the area likely to come into contact with battery electrical terminals as the result of a blow to, and upward collapse of, the bottom of the battery box in the event of an accident or other event) shall be covered with a rubber matting or other impact-resistant nonconductive material. The matting shall be a minimum of 1/8 inch thick and cover the entire top inside surface of the battery box. The matting shall be securely installed to maintain its position at all times.

(5) Buses may be equipped with a battery shut-off switch. The switch is to be placed in a location not readily accessible to the driver or passengers.

b. Alternator

(1) All Type A and Type B buses with a GVWR of 15,000 pounds or less shall have a minimum 130-amp alternator. Buses equipped with an electrically powered wheelchair lift, air conditioning, or both shall be equipped with the highest rated capacity available from the chassis OEM.

(2) All buses over 15,000 pounds GVWR shall be equipped with a heavy-duty truck- or bus-type alternator that has a minimum output rating of 200 amps or higher and that produces a minimum current output of 50 percent of the rating at engine idle speed.

(3) Buses other than those described in subparagraph 44.3(18) “b”(1) equipped with an electrically powered wheelchair lift, air conditioning, or both shall have a minimum alternator output of 240 amps and may be equipped with a device that advances the engine idle speed when the voltage drops to, or below, a pre-set level.

(4) A belt-driven alternator shall be capable of handling the rated capacity of the alternator with no detrimental effect on any other driven components. (For estimating required alternator capacity, see School Bus Manufacturers Technical Council’s publication “School Bus Technical Reference,” available at www.nasdpts.org.)

(5) A direct/gear-drive alternator is permissible in lieu of a belt-driven alternator.

c. Electrical components. Materials in electrical components shall contain no mercury.

d. Wiring, chassis.

(1) All wiring shall conform to current applicable recommended practices of the Society of Automotive Engineers (SAE). All wiring shall use color and at least one other method for identification. The other method shall be either a number code or name code, and each chassis shall be delivered with a wiring diagram that illustrates the wiring of the chassis.

(2) The chassis manufacturer of an incomplete vehicle shall install a readily accessible terminal strip or connector on the body side of the cowl or in an accessible location in the engine compartment of vehicles designed without a cowl. The strip or connector shall contain the following terminals for the body connections:

(3) An appropriate identifying diagram (color plus a name or number code) for all chassis electrical circuits shall be provided to the body manufacturer for distribution to the end user.

(4) Wiring for the headlamp system must be separate from the electronic controlled body solenoid/module.

e. Wiring, body.

(1) All wiring shall conform to current applicable SAE recommended practices.

(2) All wiring shall have an amperage capacity exceeding the design load by at least 25 percent. All wiring splices are to be accessible and noted as splices on the wiring diagram.
(3) A body wiring diagram, sized to be easily read, shall be furnished with each bus body or affixed to an area convenient to the electrical accessory control panel.

(4) The body power wire shall be attached to a special terminal on the chassis.

(5) Each wire passing through metal openings shall be protected by a grommet.

(6) Wires not enclosed within the body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors, which shall be water-resistant and corrosion-resistant.

(7) Wiring shall be arranged in circuits, as required, with each circuit protected by a fuse breaker or electronic protection device. A system of color- and number-coding shall be used and an appropriate identifying diagram shall be provided to the end user, along with the wiring diagram provided by the chassis manufacturer. The wiring diagrams shall be specific to the bus model supplied and shall include any changes to wiring made by the body manufacturer. Chassis wiring diagrams shall be supplied to the end user. The following body interconnecting circuits shall be color-coded, as noted:

<table>
<thead>
<tr>
<th>FUNCTION</th>
<th>COLOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Left Rear Directional Lamp</td>
<td>Yellow</td>
</tr>
<tr>
<td>Right Rear Directional Lamp</td>
<td>Dark Green</td>
</tr>
<tr>
<td>Stop Lamps</td>
<td>Red</td>
</tr>
<tr>
<td>Back-Up Lamps</td>
<td>Blue</td>
</tr>
<tr>
<td>Tail Lamps</td>
<td>Brown</td>
</tr>
<tr>
<td>Ground</td>
<td>White</td>
</tr>
<tr>
<td>Ignition Feed, Primary Feed</td>
<td>Black</td>
</tr>
</tbody>
</table>

The color of the cables shall correspond to SAE J1128, Low-Tension Primary Cable.

(8) Wiring shall be arranged in at least six regular circuits, as follows:

1. Head, tail, stop (brake), clearance and instrument panel lamps;
2. Step well lamps, which shall be actuated when the entrance door is open;
3. Dome lamps;
4. Ignition and emergency door signal;
5. Turn signal lamps; and
6. Alternately flashing signal lamps.

(9) Any of the above combination circuits may be subdivided into additional independent circuits.

(10) Heaters and defrosters shall be wired on an independent circuit.

(11) Whenever possible, all other electrical functions (such as sanders and electric-type windshield wipers) shall be provided with independent and properly protected circuits.

(12) Each body circuit shall be coded by number or letter on a diagram of circuits and shall be attached to the body in a readily accessible location.

(13) Buses may be equipped with a 12-volt power port in the driver’s area.

(14) There shall be a manual noise suppression switch installed in the control panel. The switch shall be labeled and alternately colored. This switch shall be an on/off type that deactivates body equipment that produces noise, including at least the AM/FM radio, heaters, air conditioners, fans and defrosters. This switch shall not deactivate safety systems, such as windshield wipers or lighting systems.

(15) The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted.

44.3(22) 44.3(19) Emergency equipment.

a. All Type A, B, C, and D school buses shall be equipped with the following emergency equipment mounted in the driver’s compartment: first-aid first aid kit, fire extinguisher, webbing cutter, and body fluid cleanup kit, and triangular warning devices. Triangular warning devices are required in each vehicle and may be mounted in the driver’s compartment or behind the rear seat.
b. All emergency equipment shall be securely mounted so that, in the event the bus is overturned, this equipment is held in place. Emergency equipment, with the exception of the webbing cutter mounted in a location accessible to the driver, may be mounted in an enclosed compartment provided that the compartment is labeled in not less than 1-inch letters, stating the piece(s) of equipment contained therein.

c. Fire extinguishers shall meet the following requirements:
   (1) The bus shall be equipped with at least one five-pound 5-pound capacity, UL-approved, pressurized dry chemical fire extinguisher complete with hose. The extinguisher shall be located in the driver’s compartment readily accessible to the driver and passengers and shall be securely mounted in a heavy-duty automotive bracket so as to prevent accidental release in case of a crash or in the event the bus overturns.
   (2) A calibrated or marked gauge shall be mounted on the extinguisher to indicate the amount of pressure in the extinguisher and shall be easily read without moving the extinguisher from its mounted position. Plastic discharge heads and related parts are not acceptable.
   (3) The fire extinguisher shall have a rating of 2A-10BC or greater. The operating mechanism shall be sealed with a type of seal which will not interfere with the use of the fire extinguisher.
   (4) All fire extinguishers shall be inspected and maintained in accordance with the National Fire Protection Association requirements.
   (5) Each extinguisher shall have a tag or label securely attached that indicates the month and year the extinguisher received its last maintenance and the identity of the person performing the service.

d. First aid kit.
   (1) The bus shall have a removable moistureproof and dustproof first aid kit in an accessible place in the driver’s compartment. It shall be mounted and secured, and identified as a first aid kit. The location for the first aid kit shall be marked.
   (2) Type III vehicles used as school buses shall be equipped with a ten-unit first aid kit containing the following items:
      1. 1-inch adhesive compress.
      2. 2-inch bandage compress.
      3. 4-inch bandage compress.
      4. 3-inch × 3-inch plain gauze pad.
      5. gauze roller bandage (4-inch × 5 yards).
      6. plain absorbent gauze compress (2 piece, 18-inch × 36-inch).
      7. plain absorbent gauze compress (24-inch × 72-inch).
      8. triangular bandages.
      9. wire splint (instant splints may be substituted).
   (3) A first aid kit meeting the national standards (National Standards First Aid Kit) (per NCST – National Congress on School Transportation Specifications and Procedures 2010 Manual 2015 – first aid kit) and containing the following items is required on all Type A, B, C and D school buses:
      1. 1-inch × 2½-yard adhesive tape rolls.
      2. 3-inch × 3-inch sterile gauze pads.
      3. 100 ¾-inch × 3-inch adhesive bandages.
      4. 2-inch bandage compresses.
      5. 3-inch bandage compresses.
      6. 2-inch × 6-foot sterile gauze roller bandages.
      7. 39-inch × 35-inch × 54-inch nonsterile triangular bandages with two safety pins.
      8. 36-inch × 36-inch sterile gauze pads.
      9. sterile eye pads.
      10. pair medical examination gloves.
      11. mouth to mouth airway.

e. Body fluid cleanup kit. Each bus shall be equipped with a disposable, removable, and moistureproof body fluid cleanup kit in a disposable container which includes the following items:
   (1) An EPA-registered liquid germicide (tuberculocidal) disinfectant;
(2) A fully disposable wiping cloth;
(3) A water-resistant spatula;
(4) Step-by-step directions;
(5) Absorbent material with odor counteractant;
(6) Two pairs of gloves (latex);
(7) One package towelettes;
(8) A discard bag (nonlabeled paper bag with a plastic liner and a twist tie). This bag shall be
approximately 4 inches × 6 inches × 14 inches and shall be of a nonsafety color (i.e., the bag shall
not be red, orange, or yellow). The kit shall be mounted by a method that will retain the kit in place during
normal school bus operation and shall be removable without the use of tools. The kit container shall be
sealed with a breakable, nonreusable seal and must be accessible to the driver.

f. Triangular warning devices. Each school bus shall contain at least three reflectorized triangle
road warning devices mounted either in an accessible place the driver’s compartment or behind the rear
seat. These devices must meet requirements in FMVSS No. 125.

g. Each bus shall be equipped with a durable webbing cutter having a full-width handgrip and
a protected, replaceable or noncorrodible blade. This device shall be mounted in an easily detachable
manner and in a location accessible to the seated driver.

h. Axes are not allowed.

44.3(23) 44.3(20) Exhaust system.

a. The exhaust pipe, muffler and tailpipe shall be outside the bus body compartment and attached
to the chassis so as not to damage any other chassis component.

b. The tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength
and durability to 16-gauge steel tubing.

c. Chassis manufacturers shall furnish an exhaust system with tailpipe of sufficient length to
extend at least 5 inches beyond the end of the chassis frame to the vertical line of the rear end of the
body, but not beyond the rear bumper. The exhaust may exit at the left side or rear of the bus body
provided that the exit is no more than 18 inches forward of the front edge of the rear wheelhouse
opening. If designed to exit to the left side of the bus, the tailpipe shall extend at least 48.5 inches (51.5
inches if the body is to be 102 inches wide) outboard from the chassis centerline. Final positioning
shall result in the exhaust system’s extending to, but not beyond, the body limits on the left side of the
bus. The tailpipe may be flush with, or shall not extend more than 2 inches beyond, the perimeter of the
body for side-exit pipe or the bumper for rear-exit pipe. The exhaust system shall be designed such that
exhaust gas will not be trapped under the body of the bus.

d. On Type A-1 chassis greater than 15,000 pounds GVWR, Type C and Type D vehicles, the
tailpipe shall not exit beneath a fuel fill or emergency door exit. The tailpipe shall exit to the left or right
of the emergency exit door in the rear of the vehicle or to the left side of the bus in front of or behind
the rear drive axle or the tailpipe may extend through the bumper. The tailpipe exit location on all Type
A-1 or B-1 buses may be in accordance with the manufacturer’s standards. The tailpipe shall not exit
beneath any fuel filler location, emergency door or lift door.

e. On Type A-2 and Type B chassis of 15,000 pounds GVWR or less, the tailpipe may be furnished
with the manufacturer’s standard tailpipe configuration.

f. The exhaust system on a chassis shall be adequately insulated from the fuel system.

g. The muffler shall be constructed of corrosion-resistant material.

h. The exhaust system on vehicles equipped with a power lift unit may be routed to the left of the
right frame rail to allow for the installation of a power lift unit on the right side of the vehicle.

i. The tailpipe shall not exit beneath the fuel fill, lift door or emergency door.

h. The design of the aftertreatment systems shall not allow active (non-manual) regeneration of
the particulate filter during the loading and unloading of passengers. Manual regeneration systems will
be designed such that unintentional operation will not occur.

i. For aftertreatment systems that require diesel exhaust fluid (DEF) to meet federally mandated
emissions:
(1) The composition of diesel exhaust fluid (DEF) must comply with International Standard ISO 22241-1. Refer to engine manufacturer for any additional DEF requirements.

(2) The DEF supply tank shall be sized to meet a minimum ratio of 3 diesel fills to 1 DEF fill.

44.3(24) Fenders, front and hood. This subrule does not apply to Type A or D vehicles.

a. The total spread of outer edges of front fenders, measured at the fender line, shall exceed the total spread of front tires when the front wheels are in the straight-ahead position.

b. Front fenders shall be properly braced and free from any body attachment shall not require attachment to any part of the body.

c. Chassis sheet metal shall not extend beyond the rear face of the cowl.

d. Front fenders and hood may be of manufacturer’s standard material and construction.

e. The hood shall not require more than 20 pounds of force to open and shall include design features to secure the hood in an open position.

44.3(22) Fire suppression system. An automatic fire suppression system may be installed. Fire suppression system nozzles shall be located in the engine compartment, under the bus, in the electrical panel or under the dash, but they shall not be located in the passenger compartment. The system must include a lamp or buzzer to alert the driver that the system has been activated.

44.3(25) Floor insulation and covering:

a. The floor structure of Type A, B, C and D school buses shall be covered with an insulating layer of either a 5-ply minimum 5/8-inch-thick plywood, or a material of equal or greater strength and insulation R-value, having properties equal to or exceeding exterior-type softwood plywood, C-D grade as specified in standards issued by the United States Department of Commerce. All edges shall be sealed.

b. Type A buses may be equipped with a minimum ½-inch-thick plywood meeting the above requirements.

c. The floor in the under-seat area of Type B, C, and D buses, including tops of wheelhouseing, driver’s compartment and toeboard, shall be covered with an elastomer floor covering having a minimum overall thickness of 1/8 .125 inch and a calculated burn rate of 0.1 mm per minute or less using the test methods, procedures and formulas listed in FMVSS No. 302. The floor covering of the driver’s area and toeboard area on all Type A buses may be the manufacturer’s standard flooring and floor covering.

d. The floor covering in the aisles of all buses shall be of a ribbed or other raised-pattern elastomer, having a coefficient of friction of 0.85, using ASTM 1894 or 0.65 using ASTM 2047, and have a calculated burn rate of 0.1 mm per minute or less using the test methods, procedures and formulas listed in FMVSS No. 302. Minimum overall thickness shall be 0.06 .187 inch measured from tops of ribs.

e. Floor covering must be permanently bonded to the floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of a type recommended by the manufacturer of the floor-covering material. All seams must be sealed with waterproof sealer. One-piece floor covering is allowed.

f. On Type B, C and D buses, access to the fuel tank sending unit shall be provided. The access opening shall be large enough and positioned to allow easy removal of the sending unit. Any access opening in the body shall be capable of being sealed with a screw-down plate from within the body. When in place, the screw-down plate shall seal out dust, moisture and exhaust fumes. This plate shall not be installed under flooring material.

g. Cove molding or watertight sealant shall be used along the sidewalls and rear corners. All joints or seams in the floor covering shall be covered with nonferrous metal stripping or stripping constructed of material exhibiting equal durability and sealing qualities.

44.3(26) Frame.

a. The frame or equivalent shall have design and strength characteristics corresponding at least to standard practice for trucks of the same general load characteristics which are used for highway service.

b. Any secondary manufacturer that modifies the original chassis frame shall guarantee the performance of workmanship and materials resulting from such modification.
c. Extensions of frame lengths are permissible only when alterations are behind the rear hanger of the rear spring or in front of the front hanger of front spring and shall not be for the purpose of extending the wheelbase.

d. Holes in top or bottom flanges or side units of the frame and welding to the frame shall not be permitted except as provided or accepted by the chassis manufacturer.

e. Frame lengths shall be established in accordance with the design criteria for the complete vehicle.

44.3(27) 44.3(25) Fuel system.

a. All fuel tanks, including auxiliary fuel tanks, fuel tank filler pipes, and fuel tank connections shall conform to all applicable FMVSS at the date of manufacture and shall be installed in accordance with SBMTC School Bus Design Objectives, August 1996 edition.

b. a. On all Type B, C, and D vehicles, the fuel tank system shall comply with FMVSS No. 301, Fuel System Integrity, and with Federal Motor Carrier Safety Regulations, Section 393.67, paragraphs (c) through (f), with reference to material and method of construction, leak testing and certification. On Type A-1 and A-2 vehicles, the fuel tank may be of the manufacturer’s standard construction.

c. b. On chassis with a wheelbase greater than 170 inches, at least one fuel tank of 60-gallon capacity shall be provided and installed by the manufacturer. Chassis with a wheelbase of 170 inches or less shall be equipped with at least one fuel tank of 30-gallon minimum capacity, as provided and installed by the manufacturer.

d. c. The fuel tank(s) may be mounted between the chassis frame rails or outboard of the frame rails on either the left or right side of the vehicle by the manufacturer. Tanks shall be mounted directly to the chassis frame, filled, and vented outside the body, in a location where accidental fuel spillage will not drip or drain on any part of the exhaust system.

e. d. Fuel filtration shall be accomplished by means of the following:

1. Gasoline-powered systems—one in-line fuel filter shall be installed between the fuel tank and the engine.

2. Diesel-powered systems—one engine-mounted fuel filter with water/fuel separator shall be supplied and installed by the engine manufacturer.

f. e. The actual draw capacity of each fuel tank shall be 83 percent of the tank capacity.

g. Unless specific agreement has been made between the body and chassis manufacturers, fuel tanks and filler spouts shall not be located in spaces restricted by SBMTC School Bus Design Objectives, August 1996 edition.

44.3(28) 44.3(26) Fuel system, alternative fuels. An alternative fuel is defined as liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), electricity, hydrogen, methanol, ethanol, clean diesel, biodiesel, soy diesel, reformulated gasoline, or any type of hybrid system. Vehicles that operate on an alternative fuel shall meet the following requirements:

a. Chassis shall meet all standards of this rule.

b. Chassis shall meet all applicable FMVSS standards including, but not limited to, the fuel system integrity standards of FMVSS No. 301 or FMVSS No. 303 and FMVSS No. 304.


d. All alternative fuel buses shall travel a loaded range of not less than 200 miles, except those powered by electricity, which shall travel not less than 80 miles.

e. Liquefied natural gas (LNG)-powered buses shall comply with NFPA Standard 57, “Liquefied Natural Gas Vehicular-Fueled Systems,” and be equipped with an interior/exterior gas detection system. All natural gas-powered buses shall be equipped with a fire detection and suppression system.

f. All materials and assemblies used to transfer or store alternative fuels shall be installed outside the passenger/driver compartment.
g. The total weight shall not exceed the GVWR when loaded to rated capacity.

h. The manufacturer supplying the alternative fuel equipment must provide the owner and operator with adequate training and certification in fueling procedures, scheduled maintenance, troubleshooting, and repair of alternative fuel equipment. Overflow protection device (OPD) testing must be done yearly by a tester trained in this procedure and whose training has been documented. Documentation of the annual OPD valve test shall be a label or identification tag affixed to the step well of the bus, signed and dated by the test person with permanent marker. The label shall indicate the expiration date of the successful test.

i. All fueling equipment shall be designed specifically for fueling motor vehicles and shall be certified by the manufacturer as meeting all applicable federal, state and industry standards.

j. All on-board fuel supply containers shall meet all appropriate requirements of the ASME code, the DOT regulations, or applicable FMVSS and NFPA standards.

k. All fuel supply containers shall be securely mounted to withstand a static force of eight times their weight in any direction.

l. All safety devices that may discharge to the atmosphere shall be vented to the outside of the vehicle. The discharge line from the safety relief valve on all school buses shall be located in a manner appropriate to the characteristics of the alternative fuel. Discharge lines shall not pass through the passenger compartment. Discharge lines shall be kept clear with flapper-valve or other device which will allow low-pressure discharge but prevent clogging by foreign matter or insects.

m. A positive, quick-acting (¼ turn), shut-off control valve shall be installed in the gaseous fuel supply lines as close to the fuel supply containers as possible. The controls for this valve shall be placed in a location easily operable from the exterior of the vehicle. The location of the valve control shall be clearly marked on the exterior surface of the bus.

n. A grounding system shall be required for grounding of the fuel system during maintenance-related venting.

o. Automatic engine shut-down systems are not permissible.

p. Storage batteries for hybrid power systems shall be protected from crash impacts and shall be encased in a nonconductive, acid-resistant compartment. This compartment must be well-ventilated to preclude the possibility of hydrogen gas buildup.

44.3(29) 44.3(27) Fuel system, fuel fill opening and cover. Where an opening in the school bus body skirt is needed for access to the fuel fill cap, the opening shall be large enough to permit filling the fuel tank without the need for special fuel nozzle adapters, a funnel, or other device. The opening shall be equipped with a forward hinged cover held closed by a spring or other conveniently operated device. The cover may be of a lockable design. Type A buses are exempt from the requirement of a cover.

44.3(30) 44.3(28) Governor. An electronic engine speed limiter shall be provided and set to limit engine speed, not to exceed the maximum revolutions per minute as recommended by the engine manufacturer.

44.3(29) Handrails. At least one handrail shall be installed. The handrail shall be a minimum of 1 inch in diameter and be constructed from corrosion-resistant material(s). The handrail(s) shall assist passengers during entry or exit and shall be designed to prevent entanglement, as evidenced by the passing of the National Highway Traffic Safety Administration (NHTSA) string and nut test.

44.3(31) 44.3(30) Heating and air conditioning.

a. Each The heater shall be hot-water or combustion type, electric heating element, or heat pump.

b. If only one heater is used, it shall be a fresh-air or combination fresh-air and recirculation type.

c. If more than one heater is used, additional heaters may be recirculating air type.

d. The heating system shall be capable of maintaining bus interior temperatures as specified in SAE test procedure J2233.

e. Auxiliary fuel-fired heating systems are permitted, provided that they comply with the following:

1. The auxiliary heating system shall utilize the same type of fuel as specified for the vehicle engine.

2. Heater(s) may be direct hot air or connected to the engine’s coolant system.
(3) An auxiliary heating system, when connected to the engine’s coolant system, may be used to preheat the engine coolant or preheat and add supplementary heat to the bus’s heating system.

(4) Auxiliary heating systems must be installed pursuant to the manufacturer’s recommendations and shall not direct exhaust in a manner that will endanger bus passengers.

(5) Auxiliary heating systems which operate on diesel fuel shall be capable of operating on #1, #2 or blended diesel fuel without the need for system adjustment.

(6) The auxiliary heating system shall be low voltage.

(7) Auxiliary heating systems shall comply with all applicable FMVSS including FMVSS No. 301 as well as SAE test procedures.

f. Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or any sharp edges and shall not interfere with or restrict the operation of any engine function. Heater hoses shall conform to SAE Standard J20c, Coolant System Hoses. Heater lines, cores, and elements on the interior of the bus shall be shielded to prevent scalding or burning of the driver or passengers.

g. Each hot water system installed by a body manufacturer shall include one shut-off valve in the pressure line and one shut-off valve in the return line with both valves at the engine in an accessible location, except that on all Type A and B buses, the valves may be installed in another accessible location.

h. Each hot water heating system shall be equipped with a device that is installed in the hot water pressure line that regulates the water flow to all heaters and that is located for convenient operation by the driver while seated.

i. All combustion heaters shall be in compliance with current Federal Motor Carrier Safety Regulations.

j. Accessible bleeder valves shall be installed in an appropriate place in the return lines of body manufacturer-installed heaters to remove air from the heater lines.

k. Access panels shall be provided to make heater motors, cores, elements, and fans readily accessible for service. An outside access panel may be provided for the driver’s heater.

l. Air-conditioning systems may be installed in accordance with the following:

(1) Evaporator cases, lines and ducting (as equipped) shall be designed so that all condensation is effectively drained to the exterior of the bus below floor level under all conditions of vehicle movement without leakage on any interior portion of the bus.

(2) Any evaporator or ducting system shall be designed and installed so as to be free of injury-producing projections or sharp edges. Installation shall not reduce compliance with any FMVSS applicable to the school bus. Ductwork shall be installed so that exposed edges face the front of the bus and do not present sharp edges.

(3) Any evaporators used must be copper-cored (aluminum or copper fins acceptable), except that the front evaporator, if provided by a Type A chassis manufacturer, may be aluminum-cored.

(4) Air intake for any evaporator assembly(ies) except for the front evaporator of a Type A bus shall be equipped with replaceable filter(s) accessible without disassembly of the evaporator case.

(5) On buses equipped for the transportation of persons with disabilities, the evaporator and ducting shall be placed high enough so that they will not obstruct existing or potential occupant securement shoulder strap upper attachment points. This clearance shall be provided along the entire length of the passenger area on both sides of the bus interior to allow for potential retrofitting of new wheelchair positions and occupant securement devices throughout the bus.

(6) The total air-conditioning system shall be warranted, including parts and labor, for at least two years and shall include, but not be limited to, compressor-mounting bracketry and hardware and any belts which, directly or indirectly, drive the compressor(s). Air-conditioning compressor applications must be approved in writing by the chassis engine manufacturer, stating that the installations will not void or reduce the engine manufacturer’s warranty or extended service coverage liabilities in any way.

(7) All components requiring periodic servicing must be readily accessible for servicing.

(8) Parts and service manuals shall be provided for the entire system including, but not limited to, compressor(s), wiring (includes wiring diagram), evaporators, condensers, controls, hoses and lines.
(9) Electrical requirements for the air-conditioning system shall be provided to the customer prior
to vehicle purchase or, in the case of an after-purchase installation, prior to installing the air-conditioning
system to ensure that adequate electrical demands imposed by the air-conditioning system are capable
of being met.

(10) The installed air-conditioning system should cool the interior of the bus down to at least
80 degrees Fahrenheit, measured at a minimum of three points, located 4 feet above the floor at the
longitudinal centerline of the bus. The three points shall be: near the driver’s location; at the midpoint
of the body; and 2 feet forward of the emergency door, or for Type D rear engine buses, 2 feet forward
of the end of the aisle. Test conditions will be those as outlined in the National School Transportation
Specifications and Procedures Manual 2010, Missouri Safety Center, Central Missouri State University,
Humphreys Suite 201, Warrensburg, Missouri 64093 2015.

44.3(32) 44.3(31) Heating system, provisions for:

a. The chassis engine shall have plugged openings for the purpose of supplying hot water for
the bus heating system. The openings shall be suitable for attaching 1/2 inch or metric equivalent pipe
thread hose connector.

b. The engine shall be capable of supplying water coolant having a temperature of at least
170 degrees Fahrenheit at the engine coolant thermostat opening. The coolant flow rate shall
be 50 pounds per minute at the return end of 30 feet of one-inch inside-diameter automotive hot
water heater hose. Engine temperature performance shall be measured in accordance with the School
Bus Manufacturer’s Technical Council Standard Number 001—Procedures for Testing and Rating
Automotive Bus Hot Water Heating and Ventilating Equipment, July 1996. (See SBMTC-001, Standard
Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment, of the
School Bus Manufacturers Technical Council (SBMTC).)

c. For Type A vehicles with GVWR of 10,000 pounds or less, the chassis manufacturer shall
provide a fresh-air front heater and defroster of recirculating hot water type. See also subrules 44.3(17)
44.3(14) and 44.3(34) 44.3(30).

44.3(32) 44.3(31) Headlamps.

a. Buses shall be equipped with a minimum of two headlamps meeting FMVSS No. 108 with
circuit protection.

b. The headlamp switch shall be of adequate ampere capacity to carry the load of the clearance
and identification lamps in addition to the headlamps and tail lamps since these will be activated by the
same switch.

c. There shall be a manually operated switch for selection of high- or low-beam distribution of
the headlamps.

d. The headlight system must be wired separately from the body-controlled solenoid.

e. A daytime running lamp (DRL) system shall be provided.

44.3(33) 44.3(34) Hinges. All exposed metal passenger-door hinges subject to corrosion shall be
designed to allow lubrication without disassembly. All passenger-door hinges shall be securely bolted
to the bus body. Metal screws are not acceptable.

44.3(35) 44.3(34) Horn. Chassis The bus shall be equipped with a horn horn(s) of standard make
capable of producing a complex sound in a band bands of audio frequencies between approximately
250 and 2,000 cycles per second and tested in accordance with Society of Automotive Engineers (SAE)

44.3(36) 44.3(35) Identification.

a. The body shall bear the words “SCHOOL BUS” in black letters at least 8 inches high on both
front and rear of the body or on attached signs. The lettering shall be placed as high as possible without
impairment of its visibility. The lettering shall conform to Series B of Standard Alphabets of Highway
Signs. “SCHOOL BUS” lettering shall have a reflective background or, as an option, may be illuminated
by backlighting.

b. The bus, whether school-owned or contractor-owned, shall have displayed at the beltline on
each side of the vehicle the official name of the school in black standard unshaded letters at least 5
inches high, but not more than 7 inches high.
Examples:
(1) Blank community school district.
(2) Blank independent school district.
(3) Blank consolidated school district.
If there is insufficient space due to the length of the name of the school district, the words “community,” “independent,” “consolidated,” and “district” may be abbreviated. If, after these abbreviations, there is still insufficient space available, the words “community school district” may be replaced by the uppercase letters “CSD” upon prior approval by the school transportation consultant of the Iowa department of education.
c. The incorporated names of cities located within an officially reorganized school district may be placed on either side of the bus in a single line situated beneath the official school district name. The lettering shall not exceed 2 inches in height and shall be black. This paragraph shall apply only when the names of the cities are not included in the official school district name on the beltline.
d. Buses privately owned and operated by an individual or individuals and used exclusively for transportation of students shall bear the name of the owner, at the beltline on each side of the vehicle in black standard unshaded letters at least 5 inches high, but not more than 7 inches high.
e. The words “RATED CAPACITY,” along with the appropriate number indicating the rated pupil seating capacity of the bus, shall be printed to the left of the entrance door, at least 6 inches below the name of the school district and on the bulkhead of the bus above the right windshield. The letters shall be black in color and at least 2 inches in height. The word “CAPACITY” may be abbreviated and shown as “CAP” where necessary.
f. The number of the bus shall be printed in not less than 5-inch nor more than 8-inch black letters, except as otherwise noted in this subrule, and shall be displayed on both sides, the front and the rear of the bus. The location of the bus number is at the discretion of the vehicle owner except that the number:
(1) Shall be located to the rear of the service door not more than 36 inches from the ground on the right side of the bus and at the same respective position on the left side of the bus.
(2) Shall be yellow if located on either the front or rear bumper.
(3) May be placed on the roof of the bus at a position representing the approximate lateral and longitudinal midpoint of the bus. The bus number shall be black and shall measure not less than 24 inches in length.
(4) Shall not be located on the same line as the name of the school district on either side of the bus, on the emergency door, or in a location that will interfere with the words “SCHOOL BUS.”
g. Buses privately owned by individuals, a company, or a contractor shall also bear the name of the owner, followed by the word “OWNER” in not more than 2-inch characters printed approximately 6 inches below the bus capacity on the right side of the bus.
h. Symbols, characters or letters, for the purpose of vehicle or route identification by students, may be displayed in the lower, split-sash, glass portion of the third passenger window from the front on the service entrance side of the bus. Such symbols, characters or lettering, if used, shall not exceed 36 square inches. This requirement applies to all school buses regardless of date of purchase.
i. Symbols identifying the bus as equipped for or transporting students with special needs shall be displayed. See subrule 44.4(2).
j. The words “UNLAWFUL TO PASS WHEN LIGHTS FLASH” shall be displayed on the rear emergency door of the bus between the upper and lower window glass sections. The letters shall be black and not less than 2 inches nor more than 6 inches in height. If there is not sufficient space on the emergency door, letter size may be reduced upon approval of the Iowa department of education.
k. The word “BATTERY” in 2-inch black letters shall be placed on the door covering the battery opening.
l. Pressure-sensitive markings of vinyl material may be used for the lettering mentioned in this subrule in lieu of painting.
m. Any lettering, including the name of the school’s athletic team(s), numbers, drawings, bumper stickers, characters, holiday decorations, or mascot symbols other than the bus manufacturer’s registered
trademarks or those specifically noted in paragraphs 44.3(35)“a” through “k” above are prohibited.

n. Fuel type shall be clearly displayed in 2-inch letters either on the fuel door or directly above the fuel door. Examples:
- Gasoline or Gasoline Only
- Diesel or Diesel Fuel or Diesel Only
- Propane or Propane Only
- Diesel Exhaust Fluid (DEF)

o. A “No Trespassing” sign may be affixed to the face of the top step in 2-inch black letters on a white background.

44.3(37) 44.3(36) Instruments and instrument panel.

a. Chassis shall be equipped with an instrument panel having, as a minimum, the following instrumentation: (Lights in lieu of gauges are not acceptable except as noted.)
   1. Speedometer.
   2. Odometer with accrued mileage including tenths of miles unless tenths of miles are registered on a trip odometer.
   3. Voltmeter with graduated scale.
   4. Oil pressure gauge.
   5. Water temperature gauge.
   6. Fuel gauge.
   7. Upper-beam High-beam headlamp indicator.
   8. Air pressure gauge, where air brakes are used. A light indicator in lieu of a gauge is permitted on vehicles equipped with hydraulic-over-hydraulic brake system.
   9. Turn signal indicator.
   10. Glow-plug indicator light, where appropriate.
   11. Tachometer required on vehicles 14,500 pounds GVWR and greater.

b. Gauges shall be displayed as single-gauge installations or as gauges contained in a multifunction instrument display. The multifunction instrument display shall comply, as a minimum, with the following design criteria:
   1. The driver must be able to manually select any displayable function of the gauge on a multifunction display whenever desired.
   2. Whenever an out-of-limits condition occurs, which would be displayed on one or more functions of a multifunction gauge, the multifunction gauge controller should automatically display this condition on the instrument cluster. This should be in the form of an illuminated warning light as well as having the multifunction gauge automatically display the out-of-limits indications. Should two or more functions displayed on the multifunction gauge go out of limits simultaneously, the multifunction gauge should automatically sequence between those functions continuously until the condition(s) is corrected.
   3. The use of a multifunction instrument display does not relieve the requirement of audible warning devices as required in this subrule.

c. All instruments shall be easily accessible for maintenance and repair.

d. Instruments and gauges shall be mounted on the instrument panel so each is clearly visible to the driver in a normal seated position in accordance with SBMTC School Bus Design Objectives, August 1996 edition.

e. The instrument panel shall have rheostatically controlled lamps of sufficient candlepower to illuminate all instruments, gauges, and the shift selector indicator for automatic transmission.

44.3(38) 44.3(37) Insulation.

a. Thermal insulation in the ceiling and walls shall be fire-resistant, UL-approved, and approximately 1½-inch thick with a minimum R-value of 5.5. Insulation shall be installed in such a way as to prevent it from sagging.

b. Roof bows shall be insulated in accordance with paragraph 44.3(38)“a” through “a.”

44.3(39) 44.3(38) Interior.
a. The interior of the bus shall be free of all unnecessary projections, including luggage racks and attendant handrails, to minimize the potential for injury. This standard requires inner lining on ceilings and walls. If the ceiling is constructed to contain lapped joints, the forward panel shall be lapped by the rear panel and exposed edges shall be beaded, hemmed, flanged, or otherwise treated to minimize sharp edges. Buses may be equipped with a storage compartment for tools, tire chains, and tow chains. See also subrule 44.3(64).

b. Radio speakers are permitted in the passenger compartment area only. No radio speaker, other than that which is necessary for use with two-way communication equipment, shall be located within the driver’s compartment area. All radio speakers shall be flush-mounted with the roof or side panels and shall be free of sharp edges which could cause injury to a child.

c. The driver’s area forward of the foremost padded barriers shall permit the mounting of required safety equipment and vehicle operation equipment.

d. Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dBA when tested according to the procedure found in Appendix B, National School Transportation Specifications and Procedures Manual 2010, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093 2015.

e. An access panel must be provided, front and rear, so lights and wiring for the 8-light warning system may be repaired or serviced without removing ceiling panels.

f. Ceiling material designed to reduce noise within the driver compartment or passenger compartment may be installed by the manufacturer.

g. An electronic “child check” monitor shall be installed. This monitor shall operate in such a way as to require the driver to physically walk to the back of the bus to disengage the monitor system after having first shut off the engine of the bus.

h. Mobile Wi-Fi Internet is and USB ports are allowed, in accordance with other provisions of subrule 44.3(39) 44.3(38).

i. On-board interior bus camera heads are allowed within the passenger area of the bus. Camera heads shall not extend more than 1 inch from the ceiling and shall have rounded edges as much as possible. Camera heads shall not be mounted directly above the aisle. Exterior cameras are allowed.

44.3(40) 44.3(39) Lamps and signals.

a. All lamps and lamp components shall meet or exceed applicable standards established by the Society of Automotive Engineers (SAE), the American Association of Motor Vehicle Administrators (AAMVA), and FMVSS. These lamps shall be of incandescent or LED design.

b. Clearance lamps. The body shall be equipped with two amber clearance lamps at the front and two red clearance lamps at the rear mounted at the highest and widest portion of the body.

c. Identification lamps. The bus shall be equipped with three amber identification lamps on the front and three red identification lamps on the rear. Each group shall be evenly spaced not less than 6 or more than 12 inches apart along a horizontal line near the top of the vehicle.

d. Intermediate side marker lamps. On all buses over 30 feet long, one amber side lamp is required on each side, located midway between the front and rear clearance lamps.

e. Stop/tail (brake) lamps. Buses shall be equipped with four combination, red stop/tail lamps meeting SAE specifications. Each lamp shall have double filament lamp bulbs or LEDs that are connected to the headlamp and brake-operated stop lamp circuits. These should be positioned as follows:

1. Two combination lamps with a minimum diameter of 7 inches or, if a shape other than round, a minimum of 38 square inches of illuminated area shall be mounted on the rear of the bus just to the inside of the turn signal lamps.

2. Two combination lamps with a minimum diameter of 4 inches or, if a shape other than round, a minimum of 12 square inches of illuminated area shall be mounted on the rear of the body between the beltline and the floor line. The rear license plate lamp may be combined with one lower tail lamp. Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated. Type A-2
buses with bodies supplied by the chassis manufacturer may have the manufacturer’s standard stop and tail lamps.

f. Items described in paragraphs 44.3(40) 44.3(39) “b,” “c,” “d,” and “e” shall be connected to the headlamp switch.

g. Backup lamps. The bus body shall be equipped with two white rear backup lamps. All vehicles shall be equipped with lamps at least 4 inches in diameter or, if a shape other than round, a minimum of 13 square inches of illuminated area. All lamps shall have a white or clear lens and shall meet SAE specifications. If backup lamps are placed on the same line as the brake lamps and turn signal lamps, they shall be to the inside. Exterior perimeter lighting behind rear axle, activated by reverse switch, is allowed.

h. Interior lamps. Interior lamps shall be provided which adequately illuminate the interior aisle and the step well. Step well lights and exterior boarding lights are required and shall be illuminated by a service door-operated switch, to illuminate only when headlights and clearance lights are on and the service door is open. In addition, the following interior lamps shall be provided:

1. Supervisor’s light. The rearmost ceiling light or a separate light may be used as a supervisor’s light and shall be activated by a separate switch controlled by the driver.

2. Driver’s area dome light. This light shall have a separate switch controlled by the driver and shall illuminate the driver’s compartment area.

3. Body instrument panel lights shall be controlled by a rheostat switch.

4. On buses equipped with a monitor for the front and rear lamps of the school bus, the monitor shall be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit shall be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

i. License plate lamp. The bus shall be equipped with a rear license plate illuminator. This lamp may be combined with one of the tail lamps.

j. Reflectors. Reflectors shall be securely attached to the body with sheet metal screws or another method having equivalent securement properties and installed in accordance with the requirements of FMVSS No. 108; however, the vehicle shall, as a minimum, be equipped with the following:

1. Two amber reflectors, one on each side at the lower front and corner of the body approximately at floor level and back of the door on the right side, and at a similar location on the left side. For all buses over 30 feet long, an additional amber reflector is required on each side at or near the midpoint between the front and rear side reflectors.

2. Four red reflectors, one at each side at or near the rear and two on the rear, one at each side.

3. Reflectors are to be mounted at a height not more than 42 inches or less than 30 inches above the ground on which the vehicle stands.

k. Warning signal lamps.

1. Buses shall be equipped with two red lamps at the rear of the vehicle and two red lamps at the front of the vehicle.

2. In addition to the four red lamps described above, four amber lamps shall be installed so that one amber lamp is located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. The system of red and amber signal lamps shall be wired so that amber lamps are energized manually and the red lamps are automatically energized (sequential), with amber lamps being automatically de-energized, when the stop signal arm is extended or when the bus service door is opened. An amber pilot light and a red pilot light shall be installed adjacent to the driver controls for the flashing signal lamp to indicate to the driver which lamp system is activated.

3. The area immediately around the lens of each alternately flashing signal lamp shall be black. In installations where there is no flat vertical portion of body immediately surrounding the entire lens of the lamp, there shall be a circular or square band of black immediately below and to both sides of the lens, on the body or roof area against which the signal lamp is seen from a distance of 500 feet along the axis of the vehicle. Black visors or hoods, with a minimum depth of 4 inches, may be provided.

4. Red lamps shall flash at any time the stop signal arm is extended.

5. All flashers for alternately flashing red and amber signal lamps shall be enclosed in the body in a readily accessible location.
(6) Strobe lights are permissible.

(7) Additional electronic/lighted warning devices mounted on the rear of the bus are allowed. Each design shall be evaluated and approved by Iowa department of education personnel per established criteria.

(8) Supplemental warning lights may be installed by the vehicle owner. The supplemental warning lights may be mounted to the front and rear of all Type A, B, C and D school buses and shall meet the following requirements:

1. Must be wired into the existing 8-way warning light system, operate only with the existing red lights of that system, and use the same flash pattern.
2. Must be a four-light system (two front, two rear) and shall not be mounted directly to either the front or rear bumper.

   a. Front lights must be located between the outer edge of the grill opening and the outer edge of the headlight(s), and must sit horizontally rather than vertically. The lens of the light must be approximately perpendicular to the ground and to the outside edge of the bus body.

   b. Rear lights must be located 1 inch to 3 inches above the bumper, with a maximum of 4 inches above the bumper; must be located at least 1 inch inboard from the outside edge of the bus, but left and right of the emergency door; and must sit horizontally rather than vertically. The lens of the light must be approximately perpendicular to the ground and to the outside edge of the bus body.

   i. Turn signal lamps.

   1. The bus body shall be equipped with amber rear turn signal lamps that meet SAE specifications and are at least 7 inches in diameter or, if a shape other than round, a minimum of 38 square inches of illuminated area. These signal lamps must be connected to the chassis hazard warning switch to cause simultaneous flashing of turning signal lamps when needed as a vehicular traffic hazard warning. Turn signal lamps are to be placed as far apart as practical, and their centerline shall be approximately 8 inches below the rear window. Type A-2 conversion vehicle lamps must be at least 21 square inches in lens area and in the manufacturer’s standard color.

   2. Buses shall be equipped with amber side-mounted turn signal lights. The turn signal lamp on the left side shall be mounted rearward of the stop signal arm, and the turn signal lamp on the right side shall be mounted rearward of the service door.

   m. A white flashing strobe light rated for outdoor use and weather-sealed shall be installed on the roof of the bus not less than 1 foot or more than 18 inches from the rear center of the bus. The strobe light shall be located to the rear of the rearmost emergency roof hatch to prevent the roof hatch from diminishing the effectiveness of the strobe light. In addition:

   1. The strobe light shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than the maximum legal height.

   2. The strobe light must be controlled by a separate switch with an indicator light which when lit will indicate that the strobe light is turned on.

   3. The light shall be used only in fog, rain, snow, or at times when visibility is restricted.

   4. Each model strobe shall be approved by the motor vehicle division, Iowa department of transportation.

   n. Pedestrian safety crossing lights are allowed. The safety crossing light(s) must be a minimum of 500 lumens with a maximum of 1,000 lumens of brightness per light, and must be in a flood light pattern.

   1. The light(s) shall be mounted on the face of the front bumper, facing right or left or both, and angled 45 degrees toward the ground to illuminate students waiting for the bus or to illuminate the path for students crossing the road to get to the bus.

   2. The light(s) shall activate automatically with the red warning lights and stop arm and shall deactivate automatically when the red warning lights and stop arm operations are canceled.

44.3(44) 44.3(40) Measurements.

a. Interior body height shall be 72 inches or more, measured metal to metal, at any point on the longitudinal centerline from the front vertical bow to the rear vertical bow. Inside body height of Type A-2 buses shall be 62 inches or more.
b. Overall height, length and width of the bus shall not exceed the maximums allowed by the Iowa department of transportation.

44.3(42) 44.3(41) Metal treatment.

a. All metal, except high-grade stainless steel or aluminum, used in construction of the bus body shall be zinc-coated or aluminum-coated to prevent corrosion. This requirement applies to, but is not limited to, such items as structural members, inside and outside panels, door panels and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts.

b. All metal parts that will be painted shall be, in addition to above requirements, chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed to improve paint adhesion.

c. In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas, and surfaces subjected to abrasion during vehicle operation.

d. As evidence that the above requirements have been met, samples of materials and sections used in construction of the bus body shall be subjected to a 1,000-hour salt spray test as provided for in the latest revision of ASTM Standard B-117 shall not lose more than 10 percent of material by weight shall be subjected to cyclic corrosion testing as outlined in SAE J1563.

44.3(43) 44.3(42) Mirrors.

a. The interior mirror shall be either clear view laminated glass or clear view glass bonded to a backing that retains the glass in the event of breakage. The mirror shall have rounded corners and protected edges. All Type A buses shall have a minimum of a 6-inch × 16-inch mirror; and Type B, C, and D buses shall have a minimum of a 6-inch × 30-inch mirror.

b. Each school bus shall be equipped with exterior mirrors meeting the requirements of FMVSS No. 111. Mirrors shall be easily adjustable, but shall be rigidly braced so as to reduce vibration.

c. Heated right- and left-side rearview mirrors shall be provided.

d. Systems offering a design feature permitting the driver to remotely adjust rearview mirrors from the driver’s compartment shall be utilized.

e. The right-side rearview mirrors must be unobstructed by the unwiped section of the windshield.

f. Heated cross-view mirrors shall be provided.

g. Stainless steel mirror brackets are allowed.

44.3(44) 44.3(43) Mounting.

a. The chassis frame shall support the rear body cross member. Except where chassis components interfere, the bus body shall be attached to the chassis frame at each main floor sill in such manner as to prevent shifting or separation of the body from the chassis under severe operating conditions.

b. Isolators shall be placed at all contact points between the body and chassis frame and shall be secured by a positive means to the chassis frame or body to prevent shifting, separation, or displacement of the isolators under severe operating conditions.

c. The body front shall be attached and sealed to the chassis cowl to prevent entry of water, dust, and fumes through the joint between the chassis cowl and body.

d. The refurbishing or reconditioning of a body-on-chassis school bus is restricted to the repair and replacement of school bus body or chassis components. The original body and chassis, as certified by the original equipment manufacturers (OEMs), shall be retained as a unit upon completion of repairs. It is not permissible to exchange or interchange school bus bodies and chassis. The refurbisher or reconditioner shall certify that the vehicle meets all state and federal construction standards in effect as of the date of manufacture and shall provide suitable warranty on all work performed. See also subrule 44.6(1).

44.3(45) 44.3(44) Mud flaps.

a. Mud flaps or guards are required and shall be provided and installed by the body manufacturer or manufacturer’s representative for both front and rear wheels.

b. Front mud flaps or guards shall be of adequate size to protect body areas vulnerable to road debris from wheels and shall be mounted so as to be free of wheel movement at all times.

c. Rear mud flaps or guards shall be comparable in size to the width of the rear wheelhousing and shall reach within approximately 9 inches of the ground when the bus is empty. They shall be mounted
at a distance from the wheels to permit free access to spring hangers for lubrication and maintenance and to prevent their being damaged by tire chains or being pulled off while the vehicle is in reverse motion.

d. All mud flaps shall be constructed of rubber. Vinyl or plastic is not acceptable.

44.3(46) 44.3(45) Oil filter. An oil filter with a replaceable element or cartridge shall be of manufacturer’s recommended capacity and shall be connected by flexible oil lines if it is not of built-in or engine-mounted design.

44.3(47) 44.3(46) Openings. All openings in the floorboard or fire wall between the chassis and passenger compartment, such as for gearshift selector and parking brake lever, shall be sealed.

44.3(48) 44.3(47) Passenger load.

a. Actual gross vehicle weight (GVW) is the sum of the chassis weight, plus the body weight, plus the driver’s weight, plus the total seated pupil weight.

1. For purposes of calculation, the driver’s weight is 150 pounds.

2. For purposes of calculation, the pupil weight is 120 pounds per pupil.

b. Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer’s GVWR for the chassis, nor shall the actual weight carried on any axle exceed the chassis manufacturer’s gross axle weight rating.

44.3(49) 44.3(48) Passenger securement seating system.

a. All vehicles shall conform to all FMVSS at date of manufacture.

b. Unless otherwise required by FMVSS, school bus seats may be equipped with passenger securement systems for passengers with disabilities in accordance with 281—Chapter 41 when the child’s individual education program staffing team determines that special seating and positioning are necessary during transportation. When the staffing team determines that a passenger securement system is necessary to safely transport a student with a disability, the need shall be documented in the student’s individual education plan (IEP).

c. When a child securement system is required in paragraph 44.3(49)“b,” 44.3(48)“b,” the seat, including seat frame, seat cushion, belt attachment points, belts and hardware, shall comply with all applicable FMVSS at the time of manufacture. When it is determined that the securement system is no longer necessary to provide seating assistance to a child with a disability, the securement system shall be removed from the seat frame.

d. Children transported in child safety seats shall be secured to a school bus seat utilizing a seat belt-ready seat frame, according to the child safety seat manufacturer’s instructions.

44.3(50) 44.3(49) Public address system. A public address system permitting interior, exterior or both interior and exterior communication with passengers may be installed.

44.3(51) 44.3(50) Radio/communication system. Each school bus shall have a communication system to allow communication between the driver of the bus and the school’s base of operations for school transportation. This system shall be a two-way radio, cellular phone, or similar device as allowed by local and state policies regarding use of handheld communication equipment.

44.3(52) 44.3(51) Retroreflective material.

a. Retroreflective material shall be provided in accordance with the following:

1. The rear of the bus body shall be marked with strips of reflective NSBY material to outline the perimeter of the back of the bus using material which conforms with the “Retroreflective Sheeting Daytime Color Specification Proposal” of Appendix B, National School Transportation Specifications and Procedures Manual 2010, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093. The requirements of FMVSS No. 131, School Bus Pedestrian Safety Devices, Table 1. The perimeter marking of rear emergency exits in accordance with per FMVSS No. 217 and Bus Emergency Exits and Window Retention and Release, or the use of reflective retroreflective “SCHOOL BUS” signs partially accomplish the objective of this requirement. To complete the perimeter marking of the back of the bus, strips of at least 1¼ inch reflective retroreflective NSBY material, a minimum of 1 inch and a maximum of 2 inches in width, shall be applied horizontally above the rear windows and above the rear bumper, extending from the rear emergency exit perimeter marking outward to the left and right rear corners of the bus; and vertical. Vertical strips shall be applied at the corners connecting these horizontal strips. Multifunction school activity buses (MFSABs) shall be exempt from these color requirements.
(2) “SCHOOL BUS” signs, if not of lighted design, shall be marked with reflective NSBY material comprising background for lettering of the front and rear “SCHOOL BUS” signs.

(3) Sides of the bus body shall be marked with reflective NSBY material at least 1¼ inches in width, extending the length of the bus body and located within 6 inches above or below the floor line or on the beltline.

b. Front and rear bumpers may be marked diagonally 45 degrees down to centerline of pavement with 2-inch +/− ¼ inch wide strips of noncontrasting reflective material. This material shall appear black during daylight hours; however, it will be seen as a reflective material during periods of reduced light conditions when a direct light source strikes the material.

44.3(53) 44.3(52) Road speed control. When it is desired to accurately control vehicle maximum speed, a road speed control device may be utilized. A vehicle cruise control may also be utilized.

44.3(54) 44.3(53) Rub rails.

a. One rub rail located on each side of the bus at, or no more than 8 inches above, the seat level shall extend from the rear side of the entrance door completely around the bus body (except for emergency door or any maintenance access door) to the point of curvature near the outside cowl on the left side.

b. One rub rail located at, or no more than 10 inches above, the floor line shall cover the same longitudinal area as the upper rub rail, except at wheelhouses, and shall extend only to radii of the right and left rear corners.

c. Rub rails at or above the floor line shall be attached at each body post and all other upright structural members.

d. Each rub rail shall be 4 inches or more in width in its finished form, shall be of 16-gauge steel or suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion.

e. Rub rails shall be applied to outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For all buses using a rear luggage or rear engine compartment, rub rails need not extend around rear corners.

f. The bottom edge of the body side skirts shall be stiffened by application of a rub rail, or the edge may be stiffened by providing a flange or other stiffeners.

g. Rub rails shall be painted black or shall be covered with black retroreflective material.

44.3(55) 44.3(54) Seating, crash barriers.

a. All school buses (including Type A) shall be equipped with restraining barriers which conform to FMVSS No. 222.

b. Crash barriers shall be installed conforming to FMVSS No. 222; however, all Type A-2 school bus bodies shall be equipped with padded crash barriers, one located immediately to the rear of the driver’s seat and one at the service door entrance immediately to the rear of the step well.

c. Crash barriers and passenger seats may shall be constructed with materials that enable the crash barriers and passenger seats to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the National School Transportation Specifications and Procedures Manual 2010, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093 2015. Fire block material, when used, shall include the covering of seat bottoms.

d. All crash/restraining barriers shall be the same height as the passenger seating height in the bus.

44.3(56) 44.3(55) Seating, driver.

a. Type A school buses shall be equipped with a driver’s seat of manufacturer’s standard design meeting FMVSS.

b. All Type B, C, and D school buses shall have a driver’s seat equipped with a one-piece high back designed to minimize the potential for head and neck injuries in rear impacts, providing minimum obstruction to the driver’s view of passengers and meeting applicable requirements of FMVSS No. 222. The height of the seat back shall be sufficient to provide the specified protection for a 5th percentile adult female up to a 95th percentile adult male, as defined in FMVSS No. 208. The seat shall be centered behind the steering wheel with a backrest a minimum distance of 11 inches behind the steering wheel. The seat shall be securely mounted to the floor of the bus with grade 5 or better bolts and shall be secured with locking nuts or lock washers and nuts.
c. All air brake-equipped school buses may be equipped with an air suspension driver’s seat meeting the following additional requirements:
   (1) The air control for height adjustment shall be within easy reach of the driver in the seated position.
   (2) The seat cushion shall be a minimum of 19½ inches wide, shall be fully contoured for maximum comfort, and shall have a minimum of four adjustment positions to allow changes in seat bottom angle.
   (3) The backrest shall include adjustable lumbar support.
   (4) The seat shall have a minimum of 7 inches of forward and rearward travel, adjustable with the driver in the seated position. This requirement applies to the seat mechanism. Reduction of this requirement to no less than 4 inches due to barrier placement on 89-passenger capacity buses will be acceptable.
   (5) The seat shall have a minimum of 4 inches of up and down travel.
   (6) Seat back shall include adjustability of tilt angle.
   (7) All adjustments shall be by fingertip controls without the use of tools.
   (8) The seat shall comply with all applicable FMVSS.

d. Buses shall be equipped with a Type 2 lap belt/shoulder harness seat belt assembly for the driver. This assembly may be integrated into the driver’s seat. The seat belt assembly and anchorage shall meet applicable FMVSS. The design shall also meet the following additional requirements:
   (1) The design shall incorporate a fixed female push-button-type latch on the right side at seat level, and a male locking-bar tongue on the left retracting side.
   (2) The assembly shall be equipped with a single, dual-sensitive emergency locking retractor (ELR) for the lap and shoulder belt. This system shall be designed to minimize “cinching down” on air sprung and standard seats.
   (3) The lap portion of the belt shall be anchored or guided at the seat frame by a metal loop or other such device attached to the right side of the seat to prevent the driver from sliding sideways out of the seat.
   (4) There shall be a minimum of 7 inches of adjustment of the “D” loop of the driver’s shoulder harness on a nonintegrated style of seat belt assembly.
   (5) Shoulder belt tension shall be no greater than is necessary to provide reliable retraction of the belt and removal of excess slack.
   (6) The driver’s seat belt assembly shall incorporate high-visibility material. An audible alarm is also allowed.

\[44.3(57)\] 44.3(56) Seating, passenger.

a. All seats, component parts, and seat anchorage shall comply with applicable federal requirements as of the date of manufacture.

b. All seats shall have a minimum cushion depth of 15 inches, shall have a seat back height of 24 inches above the seating reference point, and shall comply with all other requirements of FMVSS No. 222.

c. In determining the rated seating capacity of the bus, allowable average rump width shall be:
   (1) Thirteen inches where a three-three seating plan is used.
   (2) Fifteen inches where a three-two seating plan is used.

d. The following knee room requirements shall apply to all school bus bodies:
   (1) Knee room shall meet the requirements of FMVSS No. 222 and shall be measured, on Type A-2, B, C and D school buses, at the center of the transverse line of the seat and at seat cushion height. The distance from the front of a seat back (cushion) to the back surface of the cushion on the preceding seat shall be not less than 24 inches. The seat upholstery may be placed against the seat cushion padding, but without compressing the padding, before the measurement is taken.
   (2) On Type A-1 school buses, seat spacing shall be of the manufacturer’s standard spacing.

e. All seats shall be forward-facing with seat frames attached to the seat rail with two bolts, washers and nuts or flange-headed nuts. Each seat leg shall be secured to the floor by a minimum of two bolts, washers, and nuts. Flange-headed nuts may be used in lieu of nuts and washers, or seats
may be track-mounted in conformance with FMVSS No. 222. This information shall be on a label permanently affixed to the bus.

f. Jump seats or portable seats are prohibited; however, use of a flip seat at any side emergency door location in conformance with FMVSS No. 222, including required aisle width to side door, is acceptable. Any flip seat shall be free of sharp projections on the underside of the seat bottom. The underside of the flip-up seat bottoms shall be padded or contoured to reduce the possibility of snagged clothing or injury during use. Flip seats shall be constructed to prevent passenger limbs from becoming entrapped between the seat back and the seat cushion when in an upright position. The seat cushion shall be designed to rise to a vertical position automatically when not occupied.

g. Seats and seat back cushions shall be covered with a material having 42-ounce finished weight, 54-inch width, and finished vinyl coating of 1.06 broken twill or other material with equal tensile strength, tear strength, seam strength, adhesion strength, and resistance to abrasion, cold and flex separation.

h. All fabric seams shall be chain- or lock-stitch sewn with two threads, each equal to or exceeding the tensile strength of “F” rated nylon thread.

i. Passenger seats shall be constructed with materials that enable them to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the National School Transportation Specifications and Procedures Manual 2010. Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093 2015. Fire block material, when used, shall include the covering of seat bottoms.

j. Seat cushions shall contain a positive locking mechanism that requires removal of a security device before the seat may be unlatched.

k. For Type C and D buses, the distance between the rearmost portion of the seat backs of the rear row of seats and outside rear of the bus body (rear seat buffer zone), measured at the floor line, must be at least 8 inches. For Type A buses, the distance must be at least 6 inches.

44.3(58) 44.3(57) Seating, passenger restraints.

a. Lap belts shall not be installed on passenger seats in large school buses (over 10,000 pounds GVWR) except in conjunction with child safety restraint systems that comply with the requirements of FMVSS No. 213, Child Restraint Systems.

b. Three-point (3-point) lap-shoulder lap-shoulder belts may shall be installed in all buses. If installed, the restraint system shall include a flexible design feature, thus allowing three-two seating on the same 39-inch seat, depending on student size.

44.3(59) 44.3(58) Shock absorbers. Buses shall be equipped with double-action shock absorbers compatible with manufacturer’s rated axle capacity at each wheel location.

44.3(59) Steering gear.

a. The steering gear shall be approved by the chassis manufacturer and designed to ensure safe and accurate performance when the vehicle is operated with maximum load and at maximum speed.

b. If external adjustments are required, the steering mechanism shall be accessible.

c. No changes shall be made in the steering apparatus, including the addition of spinners or knobs which are not approved by the chassis manufacturer.

d. There shall be a clearance of at least 2 inches between the steering wheel and cowl, instrument panel, windshield, or any other surface.

e. Power steering is required and shall be of the integral type with integral valves. Electric power-assisted steering systems are allowed.

f. The steering system shall be designed to provide a means for lubrication of all wear points, if wear points are not permanently lubricated.

g. Tilting and telescopic steering wheels are acceptable.

44.3(60) Steps.

a. The first step at the service door shall be not less than 10 inches and not more than 14 inches from the ground when measured from the top surface of the step to the ground, based on standard chassis specifications, except that on Type D vehicles, the first step at the service door shall be 11 inches to 16 inches from the ground. A step well guard/skid plate shall be installed by the manufacturer on all Type D vehicles.
b. Step risers shall not exceed a height of 10 inches. When plywood is used on a steel floor or step, the riser height may be increased by the thickness of the plywood.

c. Steps shall be enclosed to prevent accumulation of ice and snow.

d. Steps shall not protrude beyond the side body line.

e. A suitable device(s) shall be installed within the service entrance door area to assist passengers during entry or egress from the bus. The device(s) shall be designed so as to prevent injury or fatality to passengers from being dragged by the bus after becoming entangled in the device(s).

44.3(61) Step treads.

a. All steps, including floor line platform area, shall be covered with an elastomer floor covering having a minimum overall thickness of 3/16 inch.

b. Grooved design step treads shall be such that grooves run at a 90-degree angle to the long dimension of the step tread. The step covering shall be permanently bonded to a durable backing material that is resistant to corrosion.

c. Step treads shall have a 1½-inch white or yellow nosing as an integral piece without any joint.

d. Step treads shall have abrasion resistance, slip resistance, weathering resistance, and flame resistance as outlined in the National School Transportation Specifications and Procedures Manual 2010, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093 2015.

e. A 3-inch white or yellow rubber step edge at floor level, flush with the floor covering, shall be provided.

f. Step treads shall have a calculated burn rate of .01 mm per minute or less using the test methods, procedures and formulas listed in FMVSS No. 302, Flammability of Interior Materials.

g. A spray-on application type material that meets all other step tread requirements may be used in lieu of the floor covering described in paragraph 44.3(61)"a." The material shall be applied not only to the interior surfaces of the service door step treads but also to the exterior if the exterior is not covered by undercoating.

44.3(62) Stirrup steps.

a. There shall be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning. Handles on the service door are prohibited.

b. Steps or cutouts are permitted in the front bumper only, in lieu of the stirrup steps, if the windshield and lamps are easily accessible for cleaning from that position.

44.3(63) Stop signal arm.

a. The stop signal arm shall be a flat 18-inch octagon exclusive of brackets for mounting. Stop arms or other warning devices shall not extend more than 30 inches beyond the side of the bus body. All lamps and lamp components shall comply with the requirements of FMVSS No. 131.

b. Both surfaces of the sign shall be covered with reflectorized material having a reflective capability equal to or exceeding that of 3M Corporation high-intensity sheeting.

c. The application of the reflective sheeting material shall be in accordance with the sheeting manufacturer’s suggested application process. All copy shall be sharply defined and clean cut.

d. The step arm blade shall be mounted in the area below the driver’s window on the left side of the bus.

e. A second stop signal arm may shall be installed on the left side at or near the left rear corner of the Type C and D school bus buses and shall meet the requirements of FMVSS No. 131.

f. Each stop arm blade shall be automatically extended upon activation of the red warning signal lamp system and remain extended until the red signal lamps are deactivated. In addition, each stop arm blade shall be equipped with two double-faced, 4-inch, alternately flashing red lights. The use of strobe lamps in the stop arm blade is acceptable.

g. A wind guard shall be installed which prevents air currents from circulating behind the blades.

h. The stop arm shall be vacuum-, electric-, or air-operated; and the system must positively hold the sign in extended or retracted position to prevent whipping in the wind.
I. If the air for an air-operated stop arm comes from the regular air brake system, the body manufacturer shall provide the necessary check valve and pressure reduction valve to safeguard the air supply for brake application.

J. The two double-faced, 4-inch flashing lights may be replaced with an LED illuminated, high-visibility display, spelling out the word “STOP” visible to the front and rear. This lighting system shall comply with applicable FMVSS prior to installation.

44.3(64) Storage compartments.
   a. An enclosed space shall be provided in the driver’s compartment for storing manuals and bus driver records. See also subrule 44.3(20) 44.3(17).
   b. A storage container for tools, tire chains, and tow chains may be located either inside or outside the passenger compartment; but, if inside, it shall have a cover (seat cushion may not serve this purpose) capable of being securely latched and fastened to the floor, convenient to either the service or emergency door.
   c. Luggage compartments located within the area comprising the wheelbase of the vehicle are allowed. Compartments shall include a door and a means of holding the door in an open position when the compartment is being loaded or unloaded.

44.3(65) Suspensions.
   a. The capacity of springs or suspension assemblies shall be commensurate with the chassis manufacturer’s GVWR rating.
   b. Steel leaf rear springs shall be a progressive rate or multistage design. Front leaf springs shall have a stationary eye at one end and shall be protected by a wrapped leaf in addition to the main leaf. Parabolic or taper-leaf springs are acceptable.
   c. Air suspension systems are acceptable. Air bags, hoses, hose routing, and all related hardware shall conform to the chassis manufacturer’s recommendations.

44.3(66) Steering gear.
   a. The steering gear shall be approved by the chassis manufacturer and designed to ensure safe and accurate performance when the vehicle is operated with maximum load and at maximum speed.
   b. If external adjustments are required, the steering mechanism shall be accessible.
   c. No changes shall be made in the steering apparatus including addition of spinners or knobs which are not approved by the chassis manufacturer.
   d. There shall be a clearance of at least 2 inches between the steering wheel and cowl, instrument panel, windshield, or any other surface.
   e. Power steering is required and shall be of the integral type with integral valves.
   f. The steering system shall be designed to provide a means for lubrication of all wear points, if wear points are not permanently lubricated.
   g. Tilted and telescopic steering wheels are acceptable.

44.3(67) Sun shield.
   a. For Type B, C, and D vehicles, an interior adjustable transparent sun shield not less than 6 inches x 30 inches with a finished edge shall be installed in a position convenient for use by the driver. An interior adjustable transparent driver’s side mounted sun shield of manufacturer’s specification is allowed.
   b. On all Type A buses, the sun shield shall be the manufacturer’s standard.

44.3(68) Tailpipe. See subrule 44.3(23) 44.3(20).

44.3(68) Throttle.
   a. The force required to operate the throttle shall not exceed 16 pounds throughout the full range of accelerator pedal travel.
   b. A driver-operated mechanical or electronic variable-speed hand throttle, or a fast idle switch, shall may be provided on all Type C and D vehicles.
   c. OEM adjustable pedals are acceptable as an option.

44.3(69) Tires and rims.
   a. Tires and rims of the proper size and tires with a load rating commensurate with the chassis manufacturer’s gross vehicle weight rating (GVWR) shall be provided.
b. Tires shall be of tubeless, steel-belted, radial (standard or low-profile) construction.

c. “Bud” type, hub-piloted steel rims are required. Multipiece and “Dayton” rims are prohibited.

d. Dual tires shall be provided on all vehicles listed in rule 281—44.2(285), except Type III vehicles.

e. All tires on a vehicle shall be of the same size, and the load range of the tires shall meet or exceed the GVWR as required by FMVSS No. 120.

f. Spare tires are not required; however, if specified, the spare tire shall be located outside the passenger compartment. The spare tire may not be attached to any part of the rear portion of the body including the emergency door, bumper or roof. If a tire carrier is required, it shall be suitably mounted in an accessible location outside the passenger compartment.

g. Recapped tires are permissible as replacements on equipment now in operation for use on rear wheels only, providing tires are guaranteed by the seller. Recapped tires are not permissible where single rear wheels are used.

h. Tires, when measured on any two or more adjacent tread grooves, shall have a tread groove pattern depth of at least 4/32 of an inch on the front wheels and 2/32 of an inch on the rear wheels. No measurement shall be made where tire bars, humps, or fillets are located. On Type A-1 and Type A-2 buses with single front and rear wheels, the tread groove pattern depth shall be at least 4/32 of an inch. Where specific measurement points are provided by the tire manufacturer, they shall be utilized in determining tires approved for service. This requirement also applies to buses now in service.

i. Tire pressure equalizing systems for dual rear wheels are acceptable.

j. Traction-assisting devices, including hopper-sanders, tire chains or automatic traction chains, may be installed.

k. Wheel check indicators for lug nuts are allowed.

44.3(71) 44.3(70) Tow hooks, front. Tow eyes or hooks are required on Type B, C and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks shall be installed by the manufacturer so as not to project beyond the front bumper.

44.3(72) 44.3(71) Tow hooks, rear. Two rear tow hooks are required on all school buses. Rear tow hooks shall be attached to the chassis frame and located under the rear bumper so the hook portion is under the body.

44.3(73) 44.3(72) Traction-assisting devices. Traction-assisting devices including hopper-sanders, tire chains or automatic traction chains may be installed.

44.3(74) 44.3(73) Transmission.

a. Automatic transmissions shall provide for not less than three forward speeds and one reverse speed. The shift lever, if applicable, shall provide a detent between each gear position when the gear selector quadrant and shift lever are not steering column-mounted.

b. Automatic transmissions incorporating a parking pawl shall have a transmission shifter interlock controlled by the application of the service brake to prohibit accidental engagement of the transmission. All non-parking pawl transmissions shall incorporate a park brake interlock that requires the service brake to be applied to allow release of the parking brake.

44.3(75) 44.3(74) Trash container and holding device.

a. When a trash container is placed on the school bus, it shall comply with the following:

(1) Meet the requirements of FMVSS No. 302, Flammability of Interior Materials.

(2) Be no greater than 20-quart capacity.

(3) Be secured by a holding device that is designed to prevent movement and to allow easy removal and replacement.

b. The container shall be placed in an accessible location in the driver’s compartment of the school bus subject to Iowa department of education approval. The container shall not obstruct the aisle of the bus, access to safety equipment or passenger use of the service entrance door.

c. Trash containers meeting the requirements of paragraph 44.3(74)“a” are allowable behind the rear seat.

44.3(76) 44.3(75) Turning radius.
a. A chassis with a wheelbase of 264 inches or less shall have a right and left turning radius of not more than 42½ feet, curb-to-curb measurement.

b. A chassis with a wheelbase of 265 inches or more shall have a right and left turning radius of not more than 44½ feet, curb-to-curb measurement.

44.3(77) 44.3(76) Undercoating.

a. The entire underside of the bus body, including floor sections, cross member and below floor line side panels, and chassis front fenders shall be coated with rustproofing material for which the material manufacturer has issued to the bus body manufacturer a notarized certification that materials meet or exceed all performance requirements of SAE J1959, Sept. 2003 Edition.

b. Undercoating material shall be applied with suitable airless or conventional spray equipment to the undercoating material manufacturer’s recommended film thickness and shall show no evidence of voids in cured film.

c. The undercoating material shall not cover any exhaust components of the chassis.

d. If chassis is built as a separate unit, the chassis manufacturer or its agents shall be responsible for providing undercoating to the chassis areas.

44.3(78) Vacuum check valve. A vacuum check valve shall be provided and installed on the chassis by the school bus body manufacturer for connecting vacuum accessory items.

44.3(79) 44.3(77) Vandal lock.

a. The school bus may be equipped with a vandal locking system for securing the service entrance, and emergency, and wheelchair lift door(s).

b. The vandal locking system shall include the following design features:

1. The entrance door is to be locked by an exterior key with a dead bolt, a remote control (cable) device or an electric device. The system must prevent the door from being accidentally locked by any motion the bus may encounter during its normal operation. This requirement does not apply to Type A vehicles with a left-side driver’s door.

2. When the bus is equipped with a rear-mounted engine, the emergency door and rear emergency exit window are to be locked by an interior slide bolt which shall activate a buzzer when the door or emergency exit window is locked and the ignition of the bus is turned on. The locking mechanism must be capable of being locked or unlocked without the use of a separate key or other similar device.

3. The engine starting system of the bus shall not operate if the rear or side emergency door or rear emergency exit window over the rear engine compartment is locked from either the inside or outside of the bus.

4. Hasp-type devices may not be attached to the bus for the purpose of securing any door or window.

44.3(80) 44.3(78) Ventilation.

a. The body ventilation system on Type A, B, C and D buses shall include one static, nonclosing exhaust vent in the low-pressure area of the roof and one or more combination roof ventilation/emergency escape hatches in accordance with 44.3(15) 44.3(15). The ventilation system shall be capable of being controlled and shall have sufficient capacity to maintain a proper quantity of air under operating conditions without the opening of windows except in extremely warm weather.

b. Each combination roof ventilation/emergency escape hatch shall be installed by the school bus body manufacturer or the body manufacturer’s approved representative and shall have the following design and installation features:

1. Multiposition fresh air ventilation.

2. Release handle(s) permitting operation as an emergency exit(s), accessible inside and outside the vehicle.

3. An audible warning system which sounds an alarm in the driver’s compartment area when the emergency roof hatch is unlatched shall be installed as a design feature by the manufacturer.

4. When more than one ventilation/emergency roof hatch is required, one shall be installed forward of the intersection of the horizontal and longitudinal midpoints of the bus in a low-pressure area of the roof. The second unit shall be installed on the roof in a location behind the rear axle. When only one
ventilation/emergency roof hatch is required, it shall be installed in a low-pressure area of the roof at or near the longitudinal midpoint of the bus.

(5) Ventilation/emergency escape hatches may include static-type nonclosable ventilation.
   c. Auxiliary fans shall be installed and shall meet the following requirements:
      (1) Two adjustable fans shall be installed on Type B, C and D buses. Fans for left and right sides shall be placed in a location where they can be adjusted for maximum effectiveness and do not obstruct vision to any mirror.
      (2) Fans shall be a nominal 6-inch diameter except where noted below.
      (3) Fan blades shall be covered with a protective cage. Each fan shall be controlled by a separate switch capable of two-speed operation.
      (4) Type A buses shall have at least one fan that has a nominal diameter of at least 4 inches and meets the above requirements.

44.3(81) 44.3(79) Wheelhousings.
   a. The wheelhousing opening shall allow for easy tire removal and service.
   b. The wheelhousing shall be attached to the floor sheets in such a manner as to prevent any dust, water or fumes from entering the bus body. Wheelhousings shall be constructed of at least 16-gauge steel or other material capable of withstanding passenger or other expected loads applied internally or externally without deformation.
   c. The inside height of the wheelhousing above the floor line shall not exceed 12 inches.
   d. The wheelhousing shall provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels.
   e. No part of a raised wheelhousing shall extend into the emergency door opening.

44.3(82) 44.3(80) Windshield and windows.
   b. Glass in windshields may be heat-absorbing and may contain a shaded band across the top. Location of “fade out” shall be above the upper limit for maximum visibility.
   c. Each full side window, other than emergency exits designated to comply with FMVSS No. 217, shall be split-sash type and shall provide an unobstructed emergency opening of at least 9 inches high, but not more than 13 inches high, and 22 inches wide, obtained by lowering the window. When the driver’s window consists of two sections, both sections shall be capable of being moved or opened.
   d. Insulated double glass is required in both sections of the left-side driver’s window and in the upper glass portion(s) of the service entrance door.
   e. Window glass forward of the service door and in the driver’s direct line of sight for observing exterior rearview mirrors and traffic shall be of insulated double glass or may incorporate an electric grid heating system for the purpose of clearing the windows. The door glass in Type A-2 vehicles equipped with a manufacturer’s standard van-type, right-side service door may be of the manufacturer’s standard design.
   f. The school bus body manufacturer may design and install a protective device over the inside, lower window glass of a rear emergency door to protect it from being damaged or broken during normal operation. The protective device shall be securely mounted by the manufacturer, shall be free of projections which might harm passengers, and shall permit visibility through the device to the area outside and to the rear of the bus.
   g. Tinted glazing capable of reducing the amount of light passing through a window may be installed consistent with rules established by the Iowa department of public safety relating to automotive window transparency standards, except that the following windows shall be of AS-II clear glass rating:
      (1) All glass to the immediate left of the driver.
      (2) All glass forward of the driver and service door.
      (3) All glass in the service entrance door.
h. The entire windshield area shall be of AS-I rating.

44.3(83) 44.3(81) Windshield washer system.

a. All buses shall be equipped with electric wet-arm windshield washers which conform to the body manufacturer’s recommendation as to type and size for the bus on which they are to be used. The windshield washer system on Type A vehicles may be of the manufacturer’s standard design. On Type A-2 vehicles, the windshield washer system shall be of the manufacturer’s standards.

b. The washer control(s) shall be located within easy reach of the driver.

44.3(84) 44.3(82) Windshield wiper system.

a. For Type A vehicles, windshield wipers shall be supplied by the chassis manufacturer and shall be of the manufacturer’s standard design.

b. Type B, C and D buses shall be equipped with two positive-action, two-speed or variable-speed electric or air windshield wipers. Windshield wipers shall have an intermittent wiping feature and shall be operated by a single switch.

c. The wipers shall be operated by one or more air or electric motors of sufficient power to operate wipers. If one motor is used, the wipers shall work in tandem to give a full sweep of the windshield.

d. Wiper control(s) shall be located within easy reach of the driver and shall be designed to move the blades from the driver’s view when the wiper control is in the “off” position.

e. Windshield wipers shall meet the requirements of FMVSS No. 104.

44.3(85) Wiring.

a. All wiring shall conform to current, applicable SAE-recommended practices.

b. All wiring shall use a standard color or number coding system or a combination of color and number. Each chassis shall be delivered with a wiring diagram that illustrates the wiring of the chassis.

c. The chassis manufacturer of an incomplete vehicle shall install a readily accessible terminal strip or plug on the body side of the cowl, or in an accessible location in the engine compartment of vehicles designed without a cowl, that shall contain the following terminals for the body connections:

   (1) Main 100-amp body circuit.
   (2) Tail lamps.
   (3) Right turn signal.
   (4) Left turn signal.
   (5) Stop lamps.
   (6) Backup lamps.
   (7) Instrument panel lights (rheostat controlled by headlamp switch).

d. Circuits.

   (1) An appropriate identifying diagram (coded by color or number or both) for electrical circuits shall be provided to the body manufacturer for distribution to the end user.

   (2) The headlight system must be wired separately from the body-controlled solenoid.

   (3) Wiring shall be arranged in circuits, as required, with each circuit protected by a fuse or circuit breaker or circuit protection device.

   (4) A master wiring diagram shall be supplied for each vehicle provided by the body manufacturer. Chassis wiring diagrams, including any changes to wiring made by the body manufacturer, shall also be supplied to the end user.

   (5) The following body interconnected circuits shall be color coded as noted, and the color of cables shall correspond to SAE J1128:
e. Wiring shall be arranged in at least six regular circuits as follows:
   (1) Head, tail, stop (brake) and instrument panel lamps.
   (2) Clearance and step well lamps, which shall be actuated when the service door is opened.
   (3) Dome lamp.
   (4) Ignition and emergency door signal.
   (5) Turn signal lamps.
   (6) Alternately flashing signal lamps.

f. Any of the above combination circuits may be subdivided into additional independent circuits.

g. Whenever heaters and defrosters are used, at least one additional circuit shall be installed.

h. Whenever possible, all other electrical functions, such as sanders and electric type windshield wipers, shall be provided with independent and properly protected circuits.

i. Each body circuit shall be coded by number or letter on a diagram of circuits which shall be attached to the body in a readily accessible location.

j. The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted.

k. All wiring shall have an amperage capacity exceeding the design load by at least 25 percent.

l. A body wiring diagram, of a size which can be easily read, shall be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel.

m. The body power wire shall be attached to a special terminal on the chassis.

n. Each wire passing through a metal opening shall be protected by a grommet.

o. Wires not enclosed within the body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors, which shall be water resistant and corrosion resistant.

ITEM 3. Amend rule 281—44.4(285) as follows:

281—44.4(285) Construction of vehicles for children with mobility challenges. The following shall apply to vehicles constructed for the transportation of children with mobility challenges of such severity that the children are prohibited from utilizing the regular service door entrance. Vehicles constructed for transporting these children shall meet all FMVSS relating to school bus construction and Iowa school bus construction requirements as described in rules 281—44.1(285) and 281—44.3(285). The following standards shall also apply:

44.4(1) General requirements.

a. Certification of these vehicles as multipurpose passenger vehicles due to capacity rating shall not relieve the manufacturer of the responsibility to provide a completed vehicle meeting all FMVSS for school buses as well as rules 281—44.1(285) to 281—44.3(285) relating to the construction of a school bus.

b. Alteration of the interior of the vehicle is permissible if all seats and barriers, component parts, anchorages, wheelchair securement devices, and placement of seats and barriers and wheelchair securement devices comply with federal requirements as of date of manufacture. All equipment must be supplied by the original manufacturer and installed per the original manufacturer's specification. Alteration which would return the vehicle to conventional passenger seating shall include removal of
all wheelchair securement devices, removal of the power lift, and rendering the special service door inoperable.

c. Any school bus that is used for the transportation of children who are confined to a wheelchair or other restraining devices which prohibit use of the regular service entrance shall be equipped with a power lift located on the right side of the bus body located either forward of or behind the rear wheels on a Type A, B, C, or D bus.

Wheelchair lift placement behind the rear wheels is allowed on Type A buses only. See paragraph 44.4(2)“f.”

d. The actual rated seating capacity following modification of a vehicle shall be placed at locations indicated in paragraph 44.3(36)”a.” 44.3(35)“e.”

e. Ramps are not permitted.

44.4(2) Specific requirements.

a. Aisle.

(1) Aisles leading from wheelchair placement(s) to the special service door and the service door shall at all times be a minimum of 30 inches wide.

(2) Aisles leading to all the emergency doors from wheelchair placement(s) shall at all times be at least 20 inches in width. Additionally, all school buses shall provide a pathway of at least 30 inches in width leading from any wheelchair position to at least one 30-inch-wide emergency exit door.

(3) A wheelchair securement position shall not be located directly in front of a power lift door.

b. Barriers.

(1) Barriers shall comply with and be installed as required by federal standards as of date of manufacture.

(2) A heavy-duty padded barrier or stanchion shall be provided immediately to the rear of the step well opening extending from the side wall of the bus to approximately the aisle to prevent a person from accidentally falling into the step well opening from floor level. A barrier or stanchion as mentioned above shall also be placed directly behind the driver.

(3) The power lift mechanism shall be padded and protected to prevent a child from accidentally getting any part of the child’s body caught in the power lift mechanism or special service door at any time.

(4) All crash/restraining barriers shall be the same height as the passenger seating height in the bus.

c. Glazing. Tinted glazing may be installed in all doors, windows, and windshield.

d. Heaters. An additional heater(s) may be installed in the rear portion of the bus on or behind wheel wells.

e. Identification. Buses with wheelchair lifts used for transporting physically handicapped children with physical disabilities shall display universal handicapped symbols the International Symbol of Accessibility located on the front and rear of the vehicle below the window line. Emblems shall be white on blue, shall not exceed 12 × 12 inches in size, and may be reflectorized.

f. Power lift.

(1) The lifting mechanism shall be able to lift a minimum payload of 800 pounds.

(2) The power lift shall be located on the right side of the body and in no way be attached to the exterior sides of the bus, but should be confined within the perimeter of the school bus body when not extended. The power lift shall may be located either forward of or behind the rear wheels of the vehicle. Wheelchair lift placement behind the rear wheels is allowed on Type A buses only.

(3) When the platform is in the fully “up” position, it shall be locked in position mechanically by means other than a support or lug in the door.

(4) All lift controls shall be portable and conveniently located on the inside of the bus near the special service door opening. Controls shall be easily operable from inside or outside the bus by either a platform standee or person seated in a wheelchair when the lift is in any position. A master cut-off switch controlling on/off power to the lift shall be located in the driver’s compartment. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.

(5) Power lifts shall be equipped so they may be manually raised or lowered in the event of power failure of the power lift mechanism.
(6) The platform shall accommodate a wheelchair which is 30 inches wide. The platform shall be not less than 44 inches long, including guard panels or rails.

(7) The power lift platform shall be covered with skid-resistant material or be designed to prevent slipping.

(8) The lift platform shall be constructed to permit vision through that portion of the platform covering the window of the special service door when the platform is in the “up” position.

(9) All edges of the platform shall be designed to restrain a wheelchair and to prevent the operator’s feet from being entangled during the raising and lowering process.

(10) The platform shall be fitted on both sides with full width shields which extend above the floor line of the lift platform.

(11) An operating safety barrier shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground level. The barrier shall not be capable of being manually operated.

(12) A self-adjusting, skid-resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in subparagraph (11) above.

(13) The power lift shall be designed so the lift will not operate unless the special service door(s) is opened and the lift platform is in the “down” or horizontal position.

(14) The lift travel shall allow the lift platform to rest securely on the ground.

(15) A circuit breaker, fuse, or other electrical protection device shall be installed between the power source and the lift motor if electrical power is used.

(16) When hydraulic pressure is used in the lifting process, the system shall be equipped with adjustable limit switches or bypass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full “up” position or full “down” position.

(17) All exposed parts of the power lift which are in direct line with the forward or rearward travel of a wheelchair student or attendant shall be padded with energy-absorbing material.

g. **Ramps.** Ramps are not permitted, with the exception of the MV-1 purpose-built wheelchair accessible vehicle.

h. **Regular service entrance.**

(1) An additional fold-out or slide-out step may be provided which will provide for the step level to be no more than 6 inches from the ground level to assist persons with handicapping conditions. Disabilities that prohibit the use of the standard entrance step. This step, when stored and not in use, shall not impede or in any way block the normal use of the entrance.

(2) On power lift-equipped vehicles, service entrance steps shall be the full width of the step well, excluding the thickness of the doors in the open position.

(3) In addition to the standard handrail required in all buses, an additional handrail may be provided on all specially equipped school buses. If so equipped, this rail shall be located on the opposite side of the entrance door from the required rail and shall meet the same requirements for handrails.

i. **Seating and seating arrangements.**

(1) All seat spacing, seats, and related components shall comply with applicable federal standards as of date of manufacture.

(2) All seats shall be forward facing. Side-facing seats are prohibited.

(3) Seat frames may be equipped by the school bus body manufacturer with rings or other devices to which passenger restraint systems may be attached.

j. **Special light.** Light(s) shall be placed inside the bus to sufficiently illuminate the lift area and shall be activated from the door area.

k. **Special service opening.**

(1) There shall be an enclosed service opening located on the right side (curb side) of the body forward of the rear wheels to accommodate a wheelchair lift on Type B, C and D buses. This service opening may be placed on the right side (curb side) of the body behind the rear wheels on Type A buses only to accommodate a wheelchair lift in that location.
(2) The opening shall be at least 52 inches high and 40 inches wide and with doors open shall be of sufficient width to allow for the installation of various power lifts and related accessories as well as a lifting platform at least 32 inches wide.

(3) The opening shall be positioned far enough to the rear of the regular service door opening to prevent interference of the special service door(s) opening with the regular service doors.

(4) A drip molding shall be installed above the opening to effectively divert water from the entrance.

(5) Doorposts, headers, and all floor sections around this special opening shall be reinforced to provide strength and support equivalent to adjacent side wall and floor construction of an unaltered model.

(6) A header pad at least 3 inches wide, extending the width of special service door, shall be placed above the opening on the inside of the bus.

 l. Special service door(s).

   (1) All doors shall open outwardly.

   (2) All doors shall have positive fastening devices to hold doors in the open position.

   (3) All doors shall be equipped with heavy-duty hinges and shall be hinged to the side of the bus.

   (4) All doors shall be weather sealed; and on buses with double doors, each door shall be of the same size and constructed so a flange on the forward door overlaps the edge of the rear door when closed.

   (5) If optional power doors are installed, the design shall permit release of the doors for opening and closing by the attendant from the platform inside the bus.

   (6) When manually operated dual doors are provided, the rear door shall have at least a one-point fastening device to the header. The forward-mounted door shall have at least three-point fastening devices: One shall be to the header, one shall be to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge mechanism shall be of a strength that will provide the same type of use as that of a standard entrance door.

   (7) If the door is made of one-piece construction, the door shall be equipped with a slidebar, cam-operated locking device.

   (8) Each door shall have installed a safety glass window, set in a waterproof manner, and aligned with the lower line of adjacent sash and as nearly as practical to the same size as other bus windows.

   (9) Door materials, panels, and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering, and other exterior features shall match adjacent sections of the body.

   (10) The door(s) shall be equipped with a device(s) that will actuate a flashing visible signal located in the driver’s compartment when the door(s) is not securely closed. (An audible signal is not permitted.)

 m. Special student restraining devices.

   (1) Each wheelchair station shall be equipped with a lap and torso restraint system that meets applicable FMVSS.

   (2) Special restraining devices such as shoulder harnesses, lap belts, and chest restraint systems may be installed to the seats providing that the devices do not require the alteration in any form of the school bus seat, seat cushion, framework, or related seat components. These restraints must be for the sole purpose of restraining passengers.

   (3) All child safety restraint systems shall comply with the requirements of FMVSS No. 213, Child Restraint Systems.

 n. Wheelchair securement systems.

   (1) Securement systems for wheelchairs shall meet or exceed applicable FMVSS.

   (2) All wheelchair securement systems or devices shall be placed in the vehicle so that, when secured, both wheelchair and occupant are facing toward the front of the vehicle. Fastening devices resulting in a side-facing wheelchair and occupant are not permissible.

   (3) Straps or seat-belt devices running through the wheels of the wheelchair or around the student seated in the wheelchair for the purpose of securing the wheelchair to the floor are not acceptable.
(4) The wheelchair securement system(s) shall be located in a school bus so that when a wheelchair is not secured in place the floor attachment system shall not extend above the floor level more than ½ inch.

ITEM 4. Amend subrule 44.5(1) as follows:

44.5(1) General information. These vehicles may be used as a school bus for student transportation in accordance with the following general requirements:

a. The vehicle shall be an original equipment manufacturer’s (OEM) product and manufactured as a family-type or multipurpose passenger vehicle (MPV).

(1) Vehicles classified as pickups are not allowed for use as student transportation.

(2) Vehicles used exclusively for driver’s education are exempt from these requirements.

b. to g. No change.

ITEM 5. Amend paragraph 44.5(2)“e” as follows:

e. First aid. First aid kit. The vehicle shall carry a minimum ten-unit first aid first aid kit. See 44.3(22)”d” (2) and 44.3(19)”d”(2).

ITEM 6. Amend 281—Chapter 44, appendix, as follows:

APPENDIX:

National Highway Traffic Safety Administration
Federal Motor Vehicle Safety Standards
for School Buses and Transit Buses

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**FMVSS 105, 106, 121 Hydraulic Brake Systems, Brake Hoses, Air Brake Systems Subpart C—Brakes**

§393.40 Required Brake Systems.

(a) Each commercial motor vehicle must have brakes adequate to stop and hold the vehicle or combination of motor vehicles. Each commercial motor vehicle must meet the applicable service, parking, and emergency brake system requirements provided in this section.

(b) Service brakes. (1) **Hydraulic brake systems.** Motor vehicles equipped with hydraulic brake systems and manufactured on or after September 2, 1983, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 105 in effect on the date of manufacture. Motor vehicles which were not subject to FMVSS No. 105 on the date of manufacture must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(2) **Air brake systems.** Buses, trucks and truck-tractors equipped with air brake systems and manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 121 in effect on the date of manufacture. Motor vehicles which were not subject to FMVSS No. 121 on the date of manufacture must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(3) **Vacuum brake systems.** Motor vehicles equipped with vacuum brake systems must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(4) **Electric brake systems.** Motor vehicles equipped with electric brake systems must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(c) Parking brakes. Each commercial motor vehicle must be equipped with a parking brake system that meets the applicable requirements of §393.41.

(d) Emergency brakes—partial failure of service brakes.
(d)(1) **Hydraulic brake systems.** Motor vehicles manufactured on or after September 2, 1983, and equipped with a split service brake system must, at a minimum, meet the partial failure requirements of FMVSS No. 105 in effect on the date of manufacture.

(d)(2) **Air-brake systems.** Buses, trucks and truck-tractors manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must be equipped with an emergency brake system which, at a minimum, meets the requirements of FMVSS No. 121 in effect on the date of manufacture.

(d)(3) **Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture.** Buses, trucks and truck-tractors not subject to FMVSS Nos. 105 or 121 on the date of manufacture must meet the requirements of §393.40(e). Trailers not subject to FMVSS No. 121 at the time of manufacture must meet the requirements of §393.43.

(e) **Emergency brakes, vehicles manufactured on or after July 1, 1973.** (1) A bus, truck, truck tractor, or a combination of motor vehicles manufactured on or after July 1, 1973, and not covered under paragraphs (d)(1) or (d)(2) of this section, must have an emergency brake system which consists of emergency features of the service brake system or an emergency system separate from the service brake system. The emergency brake system must meet the applicable requirements of §§393.43 and 393.52.

(e)(2) A control by which the driver applies the emergency brake system must be located so that the driver can operate it from the normal seating position while restrained by any seat belts with which the vehicle is equipped. The emergency brake control may be combined with either the service brake control or the parking brake control. However, all three controls may not be combined.

(f) **Interconnected systems.** (1) If the brake systems required by §393.40(a) are interconnected in any way, they must be designed, constructed, and maintained so that in the event of a failure of any part of the operating mechanism of one or more of the systems (except the service brake actuation pedal or valve), the motor vehicle will have operative brakes and, for vehicles manufactured on or after July 1, 1973, be capable of meeting the requirements of §393.52(b).

(f)(2) A motor vehicle to which the requirements of FMVSS No. 105 (S5.1.2), dealing with partial failure of the service brake, applied at the time of manufacture meets the requirements of §393.40(f)(1) if the motor vehicle is maintained in conformity with FMVSS No. 105 and the motor vehicle is capable of meeting the requirements of §393.52(b), except in the case of a structural failure of the brake master cylinder body.

(f)(3) A bus is considered to meet the requirements of §393.40(f)(1) if it meets the requirements of §393.44 and §393.52(b).

§393.51 Warning signals, air pressure and vacuum gauges.

(a) **General rule.** Every bus, truck and truck tractor, except as provided in paragraph (f), must be equipped with a signal that provides a warning to the driver when a failure occurs in the vehicle’s service brake system. The warning signal must meet the applicable requirements of paragraphs (b), (c), (d) or (e) of this section.

(b) **Hydraulic brakes.** Vehicles manufactured on or after September 1, 1975, must meet the brake system indicator lamp requirements of FMVSS No. 571.105 (S5.3) applicable to the vehicle on the date of manufacture. Vehicles manufactured on or after July 1, 1973, but before September 1, 1975, or to which FMVSS No. 571.105 was not applicable on the date of manufacture, must have a warning signal which operates before or upon application of the brakes in the event of a hydraulic-type complete failure of a partial system. The signal must be either visible within the driver’s forward field of view or audible. The signal must be continuous. (Note: FMVSS No. 105 was applicable to trucks and buses from September 1, 1975, to October 12, 1976, and from September 1, 1983, to the present. FMVSS No. 105 was not applicable to trucks and buses manufactured between October 12, 1976, and September 1, 1983. Motor carriers have the option of equipping those vehicles to meet either the indicator lamp requirements of FMVSS No. 105, or the indicator lamp requirements specified in this paragraph for vehicles which were not subject to FMVSS No. 105 on the date of manufacture.)

(c) **Air brakes.** A commercial motor vehicle (regardless of the date of manufacture) equipped with service brakes activated by compressed air (air brakes) or a commercial motor vehicle towing a vehicle with service brakes activated by compressed air (air brakes) must be equipped with a pressure gauge and a warning signal. Trucks, truck tractors, and buses manufactured on or after March 1, 1975, must, at a
minimum, have a pressure gauge and a warning signal which meets the requirements of FMVSS No. 121 (§5.1.4 for the pressure gauge and §5.1.5 for the warning signal) applicable to the vehicle on the date of manufacture of the vehicle. Power units to which FMVSS No. 571.121 was not applicable on the date of manufacture of the vehicle must be equipped with:

(c)(1) A pressure gauge, visible to a person seated in the normal driving position, which indicates the air pressure (in kilopascals (kPa) or pounds per square inch (psi)) available for braking; and

(c)(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the air pressure in the service reservoir system is at 379 kPa (55 psi) and below, or one-half of the compressor governor cutout pressure, whichever is less.

(d) **Vacuum brakes.** A commercial motor vehicle (regardless of the date it was manufactured) having service brakes activated by vacuum or a vehicle towing a vehicle having service brakes activated by vacuum must be equipped with:

(d)(1) A vacuum gauge, visible to a person seated in the normal driving position, which indicates the vacuum (in millimeters or inches of mercury) available for braking; and

(d)(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the vacuum in the vehicle’s supply reservoir is less than 203 mm (8 inches) of mercury.

(e) **Hydraulic brakes applied or assisted by air or vacuum.** Each vehicle equipped with hydraulically activated service brakes which are applied or assisted by compressed air or vacuum, and to which FMVSS No. 105 was not applicable on the date of manufacture, must be equipped with a warning signal that conforms to paragraph (b) of this section for the hydraulic portion of the system; paragraph (e) of this section for the air assist/air applied portion; or paragraph (d) of this section for the vacuum assist/vacuum applied portion. This paragraph shall not be construed as requiring air pressure gauges or vacuum gauges, only warning signals.

(f) **Exceptions.** The rules in paragraphs (c), (d) and (e) of this section do not apply to property carrying commercial motor vehicles which have less than three axles and (1) were manufactured before July 1, 1973, and (2) have a manufacturer’s gross vehicle weight rating less than 4,536 kg (10,001 pounds).

§393.55 **Antilock-brake systems.**

(a) **Hydraulic brake systems.** Each truck and bus manufactured on or after March 1, 1999 (except trucks and buses engaged in driveaway-towaway operations), and equipped with a hydraulic brake system, shall be equipped with an antilock brake system that meets the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 105 (49 CFR 571.105, §5.5).

(b) **ABS malfunction indicators for hydraulic-braked vehicles.** Each hydraulic-braked vehicle subject to the requirements of paragraph (a) of this section shall be equipped with an ABS malfunction indicator system that meets the requirements of FMVSS No. 105 (49 CFR 571.105, §5.5).

(c) **Air brake systems.** (1) Each truck tractor manufactured on or after March 1, 1997 (except truck tractors engaged in driveaway-towaway operations), shall be equipped with an antilock brake system that meets the requirements of FMVSS No. 121 (49 CFR 571.121, §5.1.6.1(b)).

(c)(2) Each air-braked commercial motor vehicle other than a truck tractor, manufactured on or after March 1, 1998 (except commercial motor vehicles engaged in driveaway-towaway operations), shall be equipped with an antilock brake system that meets the requirements of FMVSS No. 121 (49 CFR 571.121, §5.1.6.1(a) for trucks and buses, §5.2.3 for semitrailers, converter dollies and full trailers).

(d) **ABS malfunction circuits and signals for air-braked vehicles.** (1) Each truck tractor manufactured on or after March 1, 1997, and each single-unit air-braked vehicle manufactured on or after March 1, 1998, subject to the requirements of paragraph (c) of this section, shall be equipped with an electrical circuit that is capable of signaling a malfunction that affects the generation or transmission of response or control signals to the vehicle’s antilock brake system (49 CFR 571.121, §5.1.6.2(a)).

(d)(2) Each truck tractor manufactured on or after March 1, 2001, and each single-unit vehicle that is equipped to tow another air-braked vehicle, subject to the requirements of paragraph (c) of this section, shall be equipped with an electrical circuit that is capable of transmitting a malfunction signal from the antilock brake system(s) on the towed vehicle(s) to the trailer ABS malfunction lamp in the cab of the
towing vehicle, and shall have the means for connection of the electrical circuit to the towed vehicle. The ABS malfunction circuit and signal shall meet the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.2(b)).

(d)(3) Each semitrailer, trailer converter dolly, and full trailer manufactured on or after March 1, 2001, and subject to the requirements of paragraph (c)(2) of this section, shall be equipped with an electrical circuit that is capable of signaling a malfunction in the trailer’s antilock brake system, and shall have the means for connection of this ABS malfunction circuit to the towing vehicle. In addition, each trailer manufactured on or after March 1, 2001, subject to the requirements of paragraph (c)(2) of this section, that is designed to tow another air-brake equipped trailer shall be capable of transmitting a malfunction signal from the antilock brake system(s) of the trailer(s) it tows to the vehicle in front of the trailer. The ABS malfunction circuit and signal shall meet the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.2).

(e) Exterior ABS malfunction indicator lamps for trailers. Each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998, and before March 1, 2009, and subject to the requirements of paragraph (c)(2) of this section, shall be equipped with an ABS malfunction indicator lamp which meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.3).

§393.41 Parking brake system.

(a) Hydraulic-braked vehicles manufactured on or after September 2, 1983. Each truck and bus (other than a school bus) with a GVWR of 4,536 kg (10,000 pounds) or less which is subject to this part and school buses with a GVWR greater than 4,536 kg (10,000 pounds) shall be equipped with a parking brake system as required by FMVSS No. 571.105 (S5.2) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). Hydraulic-braked vehicles which are not subject to the parking brake requirements of FMVSS No. 571.105 (S5.2) must be equipped with a parking brake system that meets the requirements of paragraph (c) of this section.

(b) Air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975. Each air-braked bus, truck and truck tractor manufactured on and after March 1, 1975, and each air-braked trailer except an agricultural commodity trailer, converter dolly, heavy-hauler trailer or pulpwood trailer, shall be equipped with a parking brake system as required by FMVSS No. 121 (S5.6) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). An agricultural commodity trailer, heavy-hauler or pulpwood trailer shall carry sufficient chocking blocks to prevent movement when parked.

(c) Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture. (1) Each singly driven motor vehicle not subject to parking brake requirements of FMVSS Nos. 105 or 121 at the time of manufacture, and every combination of motor vehicles must be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated, under any condition of loading in which it is found on a public road (free of ice and snow).

(c)(2) The parking brake system shall, at all times, be capable of being applied by either the driver’s muscular effort or by spring action. If other energy is used to apply the parking brake, there must be an accumulation of that energy isolated from any common source and used exclusively for the operation of the parking brake.

Exception: This paragraph shall not be applicable to air applied, mechanically held parking brake systems which meet the parking brake requirements of FMVSS No. 121 (S5.6).

(c)(3) The parking brake system shall be held in the applied position by energy other than fluid pressure, air pressure, or electric energy. The parking brake system shall not be capable of being released unless adequate energy is available to immediately reapply the parking brake with the required effectiveness.

§393.45 Brake tubing and hoses; hose assemblies and end fittings.

(a) General construction requirements for tubing and hoses, assemblies, and end fittings. All brake tubing and hoses, brake hose assemblies, and brake hose end fittings must meet the applicable requirements of FMVSS No. 106 (49 CFR 571.106).
(b) **Brake tubing and hose installation.** Brake tubing and hose must:

(b)(1) Be long and flexible enough to accommodate without damage all normal motions of the parts to which it is attached;
(b)(2) Be secured against chaffing, kinking, or other mechanical damage; and
(b)(3) Be installed in a manner that prevents it from contacting the vehicle’s exhaust system or any other source of high temperatures.

(c) **Nonmetallic brake tubing.** Coiled nonmetallic brake tubing may be used for connections between towed and towing motor vehicles or between the frame of a towed vehicle and the unsprung subframe of an adjustable axle of the motor vehicle if:

(c)(1) The coiled tubing has a straight segment (pigtail) at each end that is at least 51 mm (2 inches) in length and is encased in a spring-guard or similar device which prevents the tubing from kinking at the fitting at which it is attached to the vehicle; and
(c)(2) The spring-guard or similar device has at least 51 mm (2 inches) of closed coils or similar surface at its interface with the fitting and extends at least 38 mm (1 1/4 inches) into the coiled segment of the tubing from its straight segment.

(d) **Brake tubing and hose connections.** All connections for air, vacuum, or hydraulic braking systems shall be installed so as to ensure an attachment free of leaks, constrictions or other conditions which would adversely affect the performance of the brake system.

§393.50 Reservoirs required.
(a) Reservoir capacity for air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975. Buses, trucks, and truck-tractors manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975, must meet the reservoir requirements of FMVSS No. 121, S5.1.2, in effect on the date of manufacture.

(b) Reservoir capacity for air-braked vehicles not subject to FMVSS No. 121 on the date of manufacture and all vacuum-braked vehicles. Each motor vehicle using air or vacuum braking must have either reserve capacity, or a reservoir, that would enable the driver to make a full service brake application with the engine stopped without depleting the air pressure or vacuum below 70 percent of that indicated by the air or vacuum gauge immediately before the brake application is made. For the purposes of this paragraph, a full service brake application means depressing the brake pedal or treadle valve to the limit of its travel.

(c) **Safeguarding of air and vacuum.** Each service reservoir system on a motor vehicle shall be protected against a loss of air pressure or vacuum due to a failure or leakage in the system between the service reservoir and the source of air pressure or vacuum, by check valves or equivalent devices whose proper functioning can be checked without disconnecting any air or vacuum line, or fitting.

(d) **Drain valves for air-braked vehicles.** Each reservoir must have a condensate drain valve that can be manually operated. Automatic condensate drain valves may be used provided (1) they may be operated manually, or (2) a manual means of draining the reservoirs is retained.

**FMVSS 301 Fuel System Integrity**

§301.67 Liquid fuel tanks.
(a) Application of the rules in this section. The rules in this section apply to tanks containing or supplying fuel for the operation of commercial motor vehicles or for the operation of auxiliary equipment installed on, or used in connection with commercial motor vehicles.

(a)(1) A liquid fuel tank manufactured on or after January 1, 1973, and a side mounted gasoline tank must conform to all the rules in this section.

(a)(2) A diesel fuel tank manufactured before January 1, 1973, and mounted on a bus must conform to the rules in paragraphs (c)(7)(iii) and (d)(2) of this section.

(a)(3) A diesel fuel tank manufactured before January 1, 1973, and mounted on a vehicle other than bus must conform to the rules in paragraph (c)(7)(iii) of this section.

(a)(4) A gasoline tank, other than a side mounted gasoline tank, manufactured before January 1, 1973, and mounted on a bus must conform to the rules in paragraphs (c)(1) through (10) and (d)(2) of this section.
(a)(5) A gasoline tank, other than a side-mounted gasoline tank, manufactured before January 1, 1973, and mounted on a vehicle other than a bus must conform to the rules in paragraphs (c)(1) through (10), inclusive, of this section.

(a)(6) Private motor carrier of passengers. Motor carriers engaged in the private transportation of passengers may continue to operate a commercial motor vehicle which was not subject to this section or 49 CFR §571.301 at the time of its manufacture, provided the fuel tank of such vehicle is maintained to the original manufacturer’s standards.

(a)(7) Motor vehicles that meet the fuel system integrity requirements of 49 CFR 571.301 are exempt from the requirements of this subpart, as they apply to the vehicle’s fueling system.

(b) Definitions. As used in this section:

(b)(1) The term “liquid fuel tank” means a fuel tank designed to contain a fuel that is liquid at normal atmospheric pressures and temperatures.

(b)(2) A “side-mounted” fuel tank is a liquid fuel tank which:

(b)(2)(i) If mounted on a truck tractor, extends outboard of the vehicle frame and outside of the plan view outline of the cab, or

(b)(2)(ii) If mounted on a truck, extends outboard of a line parallel to the longitudinal centerline of the truck and tangent to the outboard side of a front tire in a straight ahead position. In determining whether a fuel tank on a truck or truck tractor is side-mounted, the fill pipe is not considered a part of the tank.

(c) Construction of liquid fuel tanks.

(c)(1) Joints. Joints of a fuel tank body must be closed by arc, gas, seam, or spot welding, by brazing, by silver soldering, or by techniques which provide heat resistance and mechanical securement at least equal to those specifically named. Joints must not be closed solely by crimping or by soldering with a lead-based or other soft solder.

(c)(2) Fittings. The fuel tank body must have flanges or spuds suitable for the installation of all fittings.

(c)(3) Threads. The threads of all fittings must be Dryseal American Standard Taper Pipe Thread or Dryseal SAE Short Taper Pipe Thread, specified in Society of Automotive Engineers Standard J476, as contained in the 1971 edition of the “SAE Handbook”, except that straight (non tapered) threads may be used on fittings having integral flanges and using gaskets for sealing. At least four full threads must be in engagement in each fitting.

(c)(4) Drains and bottom fittings.

(c)(4)(i) Drains or other bottom fittings must not extend more than 3/4 of an inch below the lowest part of the fuel tank or sump.

(c)(4)(ii) Drains or other bottom fittings must be protected against damage from impact.

(c)(4)(iii) If a fuel tank has drains the drain fittings must permit substantially complete drainage of the tank.

(c)(4)(iv) Drains or other bottom fittings must be installed in a flange or spud designed to accommodate it.

(c)(5) Fuel withdrawal fittings. Except for diesel fuel tanks, the fittings through which fuel is withdrawn from a fuel tank must be located above the normal level of fuel in the tank when the tank is full.

(c)(6) [Reserved]

(c)(7) Fill pipe.

(c)(7)(i) Each fill pipe must be designed and constructed to minimize the risk of fuel spillage during fueling operations and when the vehicle is involved in a crash.

(c)(7)(ii) For diesel-fueled vehicles, the fill pipe and vents of a fuel tank having a capacity of more than 94.75 L (25 gallons) of fuel must permit filling the tank with fuel at a rate of at least 75.8 L/m (20 gallons per minute) without fuel spillage.

(c)(7)(iii) For gasoline- and methanol-fueled vehicles with a GVWR of 3,744 kg (8,500 pounds) or less, the vehicle must permit filling the tank with fuel dispensed at the applicable fill rate required by the regulations of the Environmental Protection Agency under 40 CFR 80.22.
(c)(7)(iv) For gasoline- and methanol-fueled vehicles with a GVWR of 14,000 pounds (6,400 kg) or less, the vehicle must comply with the applicable fuel spillback prevention and onboard refueling vapor recovery regulations of the Environmental Protection Agency under 40 CFR part 86.

(c)(7)(v) Each fill pipe must be fitted with a cap that can be fastened securely over the opening in the fill pipe. Screw threads or a bayonet-type point are methods of conforming to the requirements of paragraph (e) of this section.

(c)(8) Safety venting system. A liquid fuel tank with a capacity of more than 25 gallons of fuel must have a venting system which, in the event the tank is subjected to fire, will prevent internal tank pressure from rupturing the tank’s body, seams, or bottom opening (if any).

(c)(9) Pressure resistance. The body and fittings of a liquid fuel tank with a capacity of more than 25 gallons of fuel must be capable of withstanding an internal hydrostatic pressure equal to 150% of the maximum internal pressure reached in the tank during the safety venting systems test specified in paragraph (d)(1) of this section.

(c)(10) Air vent. Each fuel tank must be equipped with a nonspill air vent (such as a ball check). The air vent may be combined with the fill pipe cap or safety vent, or it may be a separate unit installed on the fuel tank.

(c)(11) Markings. If the body of the fuel tank is readily visible when the tank is installed on the vehicle, the tank must be plainly marked with its liquid capacity. The tank must also be plainly marked with a warning against filling it to more than 95% of its liquid capacity.

(c)(12) Overfill restriction. A liquid fuel tank manufactured on or after January 1, 1973, must be designed and constructed so that:

(c)(12)(i) The tank cannot be filled, in a normal filling operation, with a quantity of fuel that exceeds 95% of the tank’s liquid capacity; and

(c)(12)(ii) When the tank is filled, normal expansion of the fuel will not cause fuel spillage.

(d) Liquid fuel tank tests. Each liquid fuel tank must be capable of passing the tests specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance standards may be used.

(d)(1) Safety venting system test.

(d)(1)(i) Procedure. Fill the tank three fourths full with fuel, seal the fuel feed outlet, and invert the tank. When the fuel temperature is between 50°F and 80°F, apply an enveloping flame to the tank so that the temperature of the fuel rises at a rate of not less than 6°F and not more than 8°F per minute.

(d)(1)(ii) Required performance. The safety venting system required by paragraph (c)(8) of this section must activate before the internal pressure in the tank exceeds 50 pounds per square inch, gauge, and the internal pressure must not thereafter exceed the pressure at which the system activated by more than five pounds per square inch despite any further increase in the temperature of the fuel.

(d)(2) Leakage test.

(d)(2)(i) Procedure. Fill the tank to capacity with fuel having a temperature between 50°F and 80°F. With the fill pipe cap installed, turn the tank through an angle of 150° in any direction about any axis from its normal position.

(d)(2)(ii) Required performance. Neither the tank nor any fitting may leak more than a total of one ounce by weight of fuel per minute in any position the tank assumes during the test.

(e) Side-mounted liquid fuel tank tests. Each side mounted liquid fuel tank must be capable of passing the tests specified in paragraphs (c)(1) and (2) of this section and the test specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance criteria may be used.

(c)(1) Drop test.

(e)(1)(i) Procedure. Fill the tank with a quantity of water having a weight equal to the weight of the maximum fuel load of the tank and drop the tank 30 feet onto an unyielding surface so that it lands squarely on one corner.

(e)(1)(ii) Required performance. Neither the tank nor any fitting may leak more than a total of 1 ounce by weight of water per minute.
(e)(2) Fill-pipe test.

(e)(2)(i) Procedure. Fill the tank with a quantity of water having a weight equal to the weight of the maximum fuel load of the tank and drop the tank 10 feet onto an unyielding surface so that it lands squarely on its fill-pipe.

(e)(2)(ii) Required performance. Neither the tank nor any fitting may leak more than a total of 1 ounce by weight of water per minute.

(f) Certification and markings. Each liquid fuel tank shall be legibly and permanently marked by the manufacturer with the following minimum information:

(f)(1) The month and year of manufacture,

(f)(2) The manufacturer’s name on tanks manufactured on and after July 1, 1989, and means of identifying the facility at which the tank was manufactured, and

(f)(3) A certificate that it conforms to the rules in this section applicable to the tank. The certificate must be in the form set forth in either of the following:

(f)(3)(i) If a tank conforms to all rules in this section pertaining to side mounted fuel tanks: “Meets all FMCSA sidemounted tank requirements.”

(f)(3)(ii) If a tank conforms to all rules in this section pertaining to tanks which are not side mounted fuel tanks: “Meets all FMCSA requirements for non side mounted fuel tanks.”

(f)(3)(iii) The form of certificate specified in paragraph (f)(3)(i) or (ii) of this section may be used on a liquid fuel tank manufactured before July 11, 1973, but it is not mandatory for liquid fuel tanks manufactured before March 7, 1989. The form of certification manufactured on or before March 7, 1989, must meet the requirements in effect at the time of manufacture.

(f)(4) Exception. The following previously exempted vehicles are not required to carry the certification and marking specified in paragraphs (f)(1) through (3) of this section:

(f)(4)(i) Ford vehicles with GVWR over 10,000 pounds identified as follows: The vehicle identification numbers (VINs) contain A, K, L, M, N, W, or X in the fourth position.

(f)(4)(ii) GM G-Vans (Chevrolet Express and GMC Savanna) and full-sized C/K trucks (Chevrolet Silverado and GMC Sierra) with GVWR over 10,000 pounds identified as follows: The VINs contain either a “J” or a “K” in the fourth position. In addition, the seventh position of the VINs on the G-Van will contain a “1.”


ARC 4480C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to standards for educator preparation programs and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 77, “Standards for Teacher Intern Preparation Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 256.7(3) and 256.16(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.16 as amended by 2019 Iowa Acts, Senate File 159.
Purpose and Summary

Chapter 77 outlines the standards and program requirements that all traditional educator preparation programs must meet in order to be accredited to prepare educators in Iowa. Compliance with these standards is required and is evaluated during each educator preparation program’s accreditation review. The standards are also applied in an annual reporting system. This rule making updates current standards due to changes made to the Iowa Code during the 2019 Legislative Session and to remain current with national standards for educator preparation.

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

An agencywide waiver provision is provided for in 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Nicole Proesch
General Counsel
Department of Education
Grimes State Office Building, Second Floor
Des Moines, Iowa 50319-0416
Phone: 515.281.8661
Fax: 515.242.5988
Email: nicole.proesch@iowa.gov

Public Hearing

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

June 25, 2019
11 a.m. to 12 noon
State Board Room, Second Floor
Grimes State Office Building
East 14th Street and Grand Avenue
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee’s
EDUCATION DEPARTMENT[281](cont’d)

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

The following rule-making action is proposed:

Amend paragraph 77.11(2)“c” as follows:

c. Program completion (to include the assessments described in Iowa Code section 256.16) and subsequent recommendation by the authorized official of the program for an initial teaching license, to include:

(1) The requirement that each teacher candidate must either meet or exceed a score on subject assessments designed by a nationally recognized testing service that measures pedagogy and knowledge of at least one subject area as approved by the director, or the teacher candidate must meet or exceed the equivalent of a score on an alternate assessment also approved by the director. That alternate assessment must be a valid and reliable subject-area-specific, performance-based assessment for preservice teacher candidates that is centered on student learning. The required passing score will be determined by the director using considerations described in Iowa Code section 256.16(1)’a ’(2) as amended by 2019 Iowa Acts, Senate File 159, section 2. A candidate who successfully completes the practitioner preparation program as required under this subparagraph shall be deemed to have attained a passing score on the assessments administered under this subparagraph even if the department subsequently sets different minimum passing scores.

(2) Waiver by the director of the assessment requirements in this paragraph for not more than one year for a person who has completed the course requirements for an approved intern preparation program but attained an assessment score below the minimum passing score set by the department for successful completion of the program under this paragraph. The department shall forward the names of all candidates granted a waiver to the board of educational examiners for consideration for a temporary license.

ARC 4481C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to standards for preparation exams and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 79, “Standards for Practitioner and Administrator Preparation Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 256.7(5), 256.7(3) and 256.16(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.16 as amended by 2019 Iowa Acts, Senate File 159.

Purpose and Summary

Chapter 79 outlines the standards and program requirements that all traditional educator preparation programs must meet in order to be accredited to prepare educators in Iowa. Compliance with these standards is required and is evaluated during each educator preparation program’s accreditation review. The standards are also applied in an annual reporting system. This rule making updates current standards due to changes made to the Iowa Code during the 2019 Legislative Session and to remain current with national standards for educator preparation.
**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**

An agencywide waiver provision is provided for in 281—Chapter 4.

**Public Comment**

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Nicole Proesch  
General Counsel  
Department of Education  
Grimes State Office Building, Second Floor  
Des Moines, Iowa 50319-0416  
Phone: 515.281.8661  
Fax: 515.242.5988  
Email: nicole.proesch@iowa.gov

**Public Hearing**

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

June 25, 2019  
12 noon to 1 p.m.  
State Board Room, Second Floor  
Grimes State Office Building  
East 14th Street and Grand Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

**Review by Administrative Rules Review Committee**

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

The following rule-making actions are proposed:

**ITEM 1.** Adopt the following new definition of “NELP standards” in rule 281—79.2(256):  
“NELP standards” means the National Educational Leadership Preparation standards for administrator preparation.
ITEM 2. Amend subrule 79.10(4) as follows:

79.10(4) The unit demonstrates alignment of unit standards with current national professional standards for educator preparation. Teacher preparation must align with InTASC standards. Leadership preparation programs must align with ISL NELP standards.

ITEM 3. Amend subrule 79.15(6) as follows:

79.15(6) Assessment requirements.

a. Each teacher candidate must either meet or exceed a score above the 25th percentile nationally on subject assessments designed by a nationally recognized testing service that measure pedagogy and knowledge of at least one subject area as approved by the director of the department of education, or the teacher candidate must meet or exceed the equivalent of a score above the 25th percentile nationally on an alternate assessment also approved by the director. That alternate assessment must be a valid and reliable subject-area-specific, performance-based assessment for preservice teacher candidates that is centered on student learning. The required passing score will be determined by the director using considerations described in Iowa Code section 256.16(1)“a”(2) as amended by 2019 Iowa Acts, Senate File 159, section 2. A candidate who successfully completes the practitioner preparation program as required under this subparagraph shall be deemed to have attained a passing score on the assessments administered under this subparagraph even if the department subsequently sets different minimum passing scores.

b. The director shall waive the assessment requirements in 79.15(6)“a” for not more than one year for a person who has completed the course requirements for an approved practitioner preparation program but attained an assessment score below the minimum passing scores set by the department for successful completion of the program under 79.15(6)“a.” The department shall forward the names of all candidates granted a waiver to the board of educational examiners for consideration for a temporary license.

ITEM 4. Amend subrule 79.17(1) as follows:

79.17(1) Each educational administrator program shall define program standards (aligned with current ISL NELP standards) and embed them in coursework and clinical experiences at a level appropriate for a novice administrator.

ARC 4467C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to residential care facilities
and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to amend Chapter 63, “Residential Care Facility—Three- to Five-Bed Specialized License,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135C.14.

Purpose and Summary

Iowa Code section 135C.2(5) requires the Department to establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with an intellectual disability, chronic mental illness, developmental disability, or brain injury, and which contain five or fewer residents. Iowa Code section 135C.2(5) also requires
the Department to include a provision requiring such a facility to be located in an area zoned for single- or multiple-family housing or in an unincorporated area and to be constructed in compliance with applicable local requirements and the rules adopted for the special classification by the state fire marshal in accordance with the concept of the least restrictive environment for the facility residents. The proposed amendments adopt this provision.

The proposed amendments require facility personnel to be awake at all times while on duty. This proposed amendment is consistent with the personnel requirements for other types of residential care facilities.

The proposed amendments remove the requirement that a person shall successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination prior to taking a Department-approved medication aide course. The Department-approved medication aide course was previously revised, which rendered this requirement unnecessary, and this proposed amendment aligns with current Department practice.

The proposed amendments remove the requirement that facilities within the special classification abide by Chapter 60, “Minimum Physical Standards for Residential Care Facilities.” Facilities within this special classification have not previously had to abide by Chapter 60, and this proposed amendment aligns with current Department practice.

Finally, the proposed amendments update the language used in expressing bedroom requirements to maintain consistency with the Department’s rules related to other types of facilities that are substantively identical. The proposed amendments do not substantively change the bedroom requirements for this special classification.

The proposed amendments were reviewed by the State Board of Health at its May 8, 2019, meeting.

_Fiscal Impact_

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

_Jobs Impact_

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

_Waivers_

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

_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 25, 2019. Comments should be directed to:

Deborah Svec-Carstens  
Iowa Department of Inspections and Appeals  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319-0083  
Email: deborah.svec-carstens@dia.iowa.gov

_Public Hearing_

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph 63.3(1)“b” as follows:
   b. Meet all of the rules, regulations, and standards contained in this chapter and in 481—Chapters
      Chapter 50 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.

ITEM 2. Amend paragraph 63.8(5)“b” as follows:
   b. Personnel in a specialized residential care facility shall provide 24-hour coverage for residential
      care services. Personnel shall be up and dressed when residents are awake at all times while on duty. (I, II, III)

ITEM 3. Amend paragraph 63.16(3)“d” as follows:
   d. Prior to taking a department-approved medication aide course, the person shall:
      (1) Successfully complete an approved residential aide course, nurse aide course, nurse aide
          training and testing program or nurse aide competency examination. (III)
      (2) Have have a letter of recommendation for admission to the medication aide course from the
          employing facility. (III)

ITEM 4. Adopt the following new paragraph 63.35(1)“d”:
   d. The facility shall be located in an area zoned for single- or multiple-family housing or in an
      unincorporated area and shall be constructed in compliance with applicable local housing codes and
      rules adopted for this classification of license by the state fire marshal. (II, III)

ITEM 5. Amend paragraph 63.35(4)“a” as follows:
   a. Each resident shall be provided with a standard, single, or twin twin-sized or larger bed, substantially
      constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

ARC 4482C

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to the requirement for pharmacy benefits managers to file
annual reports and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 59, “Pharmacy Benefits Managers,” Iowa
Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 510.9 and 510B.3
and 2019 Iowa Acts, Senate File 563, section 3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 510 and 510B and 2019 Iowa
Acts, Senate File 563.
INSURANCE DIVISION[191](cont’d)

Purpose and Summary

The Insurance Division (Division) proposes to amend current rules in and add a new rule to Chapter 59 to implement 2019 Iowa Acts, Senate File 563, (future Iowa Code chapter 510C) which requires pharmacy benefits managers to file with the Insurance Commissioner an annual report related to rebates and administrative fees received from pharmaceutical companies and the extent to which those rebates and administrative fees are passed on to the insurance companies for which the pharmacy benefits managers provide services. The legislation, 2019 Iowa Acts, Senate File 563, was signed by the Governor on May 8, 2019, and will become effective July 1, 2019. These proposed amendments and new rule are intended to become effective September 4, 2019.

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

The Division’s general waiver provisions of 191—Chapter 4 apply to these rules.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on June 27, 2019. Comments should be directed to:

Ann Outka
Insurance Division
Two Ruan Center
601 Locust Street, Fourth Floor
Des Moines, Iowa 50309
Fax: 515.281.3059
Email: ann.outka@iid.iowa.gov

Public Hearing

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

June 27, 2019
10 to 11 a.m.
Division Offices, Fourth Floor
Two Ruan Center
601 Locust Street
Des Moines, Iowa

Persons attending the public hearing will be asked to provide their names; persons may submit written comments; if persons wish to make oral comments in person or by telephone, they will be asked to state their names and whom they represent for the record, and to confine any remarks to the subject of the proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Division 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 191—59.1(510B) as follows:

**191—59.1(510B,510C) Purpose.** The purpose of this chapter is to administer the provisions of Iowa Code chapter 510, 510B and 510C (2019 Iowa Acts, Senate File 563) relating to the regulation of pharmacy benefits managers.


**ITEM 3.** Adopt the following new rule 191—59.11(510B,510C): 

**191—59.11(510B,510C) Pharmacy benefits manager annual report.**

**59.11(1) Definitions.** In addition to the definitions set forth in rule 191—59.2(510B), the definitions of Iowa Code section 510C.1 (2019 Iowa Acts, Senate File 563, section 1) shall apply to this rule.

**59.11(2) Filing of annual report.** In addition to submitting the third-party administrator annual report required under rule 191—58.11(510), each pharmacy benefits manager shall submit to the commissioner on or before February 15 of each year the annual report required by Iowa Code section 510C.2 (2019 Iowa Acts, Senate File 563, section 2) (PBM annual report). The pharmacy benefits manager shall follow the instructions and use the online submission form provided on the Iowa insurance division’s website (iid.iowa.gov) to file the PBM annual report.

**59.11(3) Verification.** At least two officers of the pharmacy benefits manager shall certify in writing that they verified the accuracy of the PBM annual report.

**59.11(4) Electronic filing.** Each pharmacy benefits manager shall submit the PBM annual report electronically as set forth in the instructions, unless otherwise specifically authorized by the commissioner.

**59.11(5) Public access.** The commissioner shall publish on the Iowa insurance division’s website (iid.iowa.gov) the nonconfidential information received in the PBM annual report.

**59.11(6) Completeness of PBM annual report.** All information required by the commissioner must be submitted before the PBM annual report shall be considered complete.

**59.11(7) Penalties.** A pharmacy benefits manager that fails to timely submit to the commissioner a complete PBM annual report shall pay a late fee of $100. If a pharmacy benefits manager fails to submit a complete PBM annual report by May 15, the pharmacy benefits manager shall be subject to penalties as set forth in rule 191—59.12(505,507,507B,510,510B,510C,514L).

**ITEM 4.** Amend renumbered rule 191—59.12(505,507,507B,510,510B,514L) as follows:

**191—59.12(505,507,507B,510,510B,510C,514L) Failure to comply.** Failure to comply with the provisions of this chapter or with Iowa Code chapters 510, and 510B and 510C (2019 Iowa Acts, Senate File 563), or failure to comply with 191—Chapters 58 and 78 or Iowa Code chapters 507 and 514L as they are relevant to the administration of this chapter or of Iowa Code chapters 510, and 510B and 510C (2019 Iowa Acts, Senate File 563), shall subject the pharmacy benefits manager to the penalties of Iowa Code chapter 507B.

**ITEM 5.** Amend 191—Chapter 59, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 505, 507, 507B, 510, 510B, 510C (2019 Iowa Acts, Senate File 563) and 514L.
ARC 4477C

MEDICINE BOARD[653]

Notice of Intended Action

Proposing rule making related to licensure of genetic counselors and providing an opportunity for public comment

The Board of Medicine hereby proposes to amend Chapter 20, “Licensure of Genetic Counselors,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 147, 148, 148H and 272C.

State or Federal Law Implemented

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

Purpose and Summary

Chapter 20 establishes the requirements for licensure of genetic counselors. This proposed rule making defines the types of informal and nonpublic actions an applicant must report to the Board as part of the license application process. This proposed rule making indicates that the Board will accept a letter sent directly from the American Board of Genetic Counseling (ABGC) or the American Board of Medical Genetics and Genomics (ABMGG) to the Board as proof that an applicant has been granted active candidate status for provisional licensure. This rule making indicates that the licensure committee shall consult with an Iowa-licensed genetic counselor if the committee is unable to eliminate questions or concerns about an applicant. This rule making defines the practice of genetic counseling to include precision medicine and indicates that if an applicant has not engaged in active practice in the last three years in the United States, the Board shall consult with an Iowa-licensed genetic counselor to determine whether there is another option to demonstrate current clinical competency. This rule making creates an option for an employer-based pathway for an applicant to demonstrate current clinical competency if the applicant has not engaged in active practice in the past three years in the United States. This rule making indicates that the Board shall consult with an Iowa-licensed genetic counselor prior to denying a license.

On February 8, 2019, the Board adopted ARC 4339C (IAB 3/13/19) regarding the licensure of genetic counselors. After the Board adopted the rules, a representative for genetic counselors requested several minor amendments. At the April 5, 2019, meeting of the Administrative Rules Review Committee, the Board requested and was granted a 70-day delay of the effective date of the rules. These rules are necessary to implement Iowa Code chapter 148H, which became effective on January 1, 2019, and for the Board to begin licensing genetic counselors.

Fiscal Impact

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

Jobs Impact

This rule making will likely increase the pool of genetic counselors and increase access to genetic counseling services in Iowa. It will likely have a positive jobs impact, which is difficult to measure at this time.
Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 653—Chapter 3.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Kent Nebel
Iowa Board of Medicine
400 S.W. Eighth Street, Suite C
Des Moines, Iowa 50309
Phone: 515.281.7088
Fax: 515.242.5908
Email: kent.nebel@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see ARC 4468C, IAB 6/5/19). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 4484C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to licensing sanctions regarding student loan debt or related service obligations and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to rescind Chapter 31, “Student Loan Default or Noncompliance with Agreement for Payment of Obligation,” and amend Chapter 36, “Discipline,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2019 Iowa Acts, Senate File 304.
State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 304.

Purpose and Summary

During the 2019 Legislative Session, changes were made to the Iowa Code which will result in the repeal of Iowa Code sections 261.121 through 261.127, on July 1, 2019, and prohibit the suspension or revocation of a license issued by a board to a person who is in default or is delinquent on repayment of a service obligation under federal or state postsecondary educational loans or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency. The proposed rule making implements the legislative changes.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Sue Mears  
Board of Pharmacy  
400 S.W. 8th Street, Suite E  
Des Moines, Iowa 50309  
Email: sue.mears@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:
PHARMACY BOARD[657](cont’d)

ITEM 1. Rescind and reserve 657—Chapter 31.
ITEM 2. Rescind subrule 36.6(25).
ITEM 3. Renumber subrules 36.6(26) to 36.6(44) as 36.6(25) to 36.6(43).
ITEM 4. Adopt the following new rule 657—36.11(88GA,SF304):

657—36.11(88GA,SF304) Prohibited grounds for discipline. The board shall not suspend or revoke the license of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

ARC 4483C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to military spouse licensure
and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 33, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 288, section 4.

Purpose and Summary

During the 2019 Legislative Session, a change was made to the Iowa Code to require agencies to establish procedures to expedite the licensing of an individual who is licensed in a similar profession or occupation in another state and who is the spouse of an active duty member of the military forces of the United States. These proposed amendments implement this change.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:
Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following new definition of “Spouse” in rule 657—33.1(85GA,ch1116):
“Spouse” means a spouse of an active duty member of the military forces of the United States.

ITEM 2. Amend rule 657—33.3(85GA,ch1116) as follows:

657—33.3(85GA,ch1116) Veteran or spouse licensure or registration. A veteran or spouse with an unrestricted pharmacist license in another jurisdiction may apply for pharmacist licensure in Iowa by license transfer/reciprocity transfer pursuant to rule 657—2.9(147,155A) and this chapter. A veteran or spouse must pass any required examinations to be eligible for pharmacist licensure by license transfer/reciprocity transfer. A veteran or spouse may submit an application for pharmacist-intern registration pursuant to 657—Chapter 4 and this chapter. A veteran or spouse may submit an application for technician registration pursuant to 657—Chapter 3 and this chapter. A veteran or spouse may submit an application for pharmacy support person registration pursuant to 657—Chapter 5 and this chapter.

33.3(1) Priority application status. A fully completed application for licensure or registration submitted by a veteran or spouse under this chapter shall be given priority status and shall be expedited.

33.3(2) Application requirements. Such an application shall contain all of the information required of all applicants for licensure or registration who hold unrestricted licenses or registrations in other jurisdictions and who are applying for licensure or registration, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. In addition, the applicant shall provide such documentation as is reasonably needed to verify the applicant’s status as a veteran under Iowa Code section 35.1(2) or as a spouse of an active duty member of the military forces of the United States.

33.3(3) Equivalency determination. Upon receipt of a fully completed application for licensure or registration, the board shall promptly determine if the requirements for licensure or registration of the jurisdiction where the veteran or spouse is licensed or registered are substantially equivalent to the requirements for licensure or registration in Iowa. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and postgraduate postgraduate experiences.

33.3(4) Licensure or registration approval. The board shall promptly grant a license or registration, as appropriate, to the veteran or spouse if the veteran applicant is licensed or registered in another jurisdiction whose licensure or registration requirements are substantially equivalent to those required in
Iowa, unless the applicant is ineligible for licensure or registration based on other grounds, for example, the applicant’s disciplinary or criminal background.

33.3(5) Notification of additional requirements and provisional licensure or registration. If the board determines that the veteran or spouse is licensed or registered in another jurisdiction whose licensure or registration requirements are not substantially equivalent to those required in Iowa, the board shall promptly inform the applicant of the additional experience, education, or examinations required for licensure or registration in Iowa. Unless the applicant is ineligible for licensure or registration based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran or spouse has not passed the required examination(s) for licensure or registration, the applicant may request that the application be placed in pending status. The board may issue a provisional 90-day license in order for a pharmacist who has applied for license transfer pursuant to rule 657—2.9(147,155A) to take and pass the multistate pharmacy jurisprudence examination (MPJE), Iowa Edition.

b. to d. No change.

ITEM 3. Amend rule 657—33.4(85GA,ch1116) as follows:

657—33.4(85GA,ch1116) Request for contested case. A military service applicant or a veteran or spouse who is aggrieved by the board’s decision to deny all or part of the military service credit application, a request for a license transfer/ reciprocal license transfer, a request for a registration, or a request for provisional license or registration, or is aggrieved by the terms under which a provisional license or registration will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board’s decision pursuant to 657—subrule 35.26(1) 35.30(1). There shall be no fees or costs assessed against the military service applicant, veteran or spouse in connection with a contested case conducted pursuant to this chapter.

ARC 4475C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to military service and veteran reciprocity for fire extinguishing and alarm systems contractors and installers and providing an opportunity for public comment

The Department of Public Safety hereby proposes to adopt new Chapter 278, “Military Service and Veteran Reciprocity for Fire Extinguishing and Alarm Systems Contractors and Installers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.4.

Purpose and Summary

The purpose of proposed Chapter 278, regarding military service and veteran reciprocity for fire extinguishing and alarm system contractors and installers, is to lay out the process for a military service applicant to obtain credit for education, training, or service that can be applied toward licensure as a contractor or installer. The chapter will also lay out the process for a veteran who is currently licensed in a different jurisdiction to obtain reciprocity in Iowa for that license.
Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Chandlor Collins
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: collins@dps.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following new 661—Chapter 278:

CHAPTER 278
MILITARY SERVICE AND VETERAN RECIPROCITY FOR FIREextinguishing AND
ALARM SYSTEMS CONTRACTORS AND INSTALLERS

661—278.1(272C) Definitions. The following definitions apply to this chapter.
“Department” means the department of public safety.
“Division” means the state fire marshal division of the department of public safety.
“Military service” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“Military service applicant” means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

“Veteran” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

661—278.2(272C) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service, toward any experience or educational requirement for licensure, by submitting a military service application form to the division.

278.2(1) The military service application may be submitted with an application for licensure, or prior to applying for licensure. No fee is required for the submission of an application for military service credit.

278.2(2) The military service applicant shall identify the experience or educational licensure requirement for which the credit would be applied, if granted.

278.2(3) The military service applicant shall provide military transcripts, a certified affidavit, or documents that verify completion of the relevant military education, training, or service. These documents may include the military service applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

278.2(4) Upon receipt of a completed military service application, the division shall promptly determine whether the verified military education, training, or service will satisfy all or part of the identified experience or educational qualifications for licensure.

278.2(5) The division shall grant credit for the military service application, in whole or in part, if the division determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

278.2(6) The division shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure, or explain why no credit was granted. The military service applicant may request reconsideration.

278.2(7) A military service applicant who is aggrieved by the division’s decision may request a contested case (administrative hearing) and may participate in the contested case by telephone. A request for a contested case shall be made within 30 days of the issuance of the division’s decision. There are no fees or costs assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

278.2(8) The division shall grant or deny the military service application prior to ruling on the application for licensure. The military service applicant shall not be required to submit any fees in connection with the licensure application unless the division grants the military service application. If the division does not grant the military service application, the military service applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year, unless otherwise mutually agreed upon. The withdrawal of a licensure application shall not preclude subsequent military service applications or licensure applications, supported by additional documentation or information.

661—278.3(272C) Veteran reciprocity.

278.3(1) A veteran with a fire protection or alarm system license in another jurisdiction may apply for licensure in Iowa through reciprocity, based on the reciprocity procedures for fire protection and alarm systems licensees as set out in the administrative rules in effect at the time that the military service application is made, and in compliance with any agreements with other jurisdictions regarding reciprocity. A fully completed licensure application submitted by a veteran under this subrule is to be given priority and is expedited.

278.3(2) A licensure application shall contain all of the information required of all military service applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for
licensure by reciprocity. This information includes, but is not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history and, if applicable, a criminal history background check. In addition, the veteran shall provide such documentation as is reasonably needed to verify the veteran’s status as a veteran under Iowa Code section 35.1(2).

278.3(3) Upon receipt of a fully completed licensure application, the division shall promptly determine if the licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The division shall make this determination based on information supplied by the veteran and additional information the division may acquire from the applicable jurisdiction. The division may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and postgraduate experiences.

278.3(4) The division shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to the licensing requirements in Iowa, unless the veteran is ineligible for licensure based on other grounds, such as the veteran’s disciplinary or criminal history.

278.3(5) If the division determines that the licensing requirements of the jurisdiction in which the veteran is licensed are not substantially equivalent to the licensing requirements in Iowa, the division shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the veteran is ineligible for licensure based on other grounds, such as disciplinary or criminal history, the following shall apply:

a. If a veteran has not obtained the required certification for licensure, the veteran may not be issued a provisional license but may request that the licensure application be placed in pending status for up to one year, or as mutually agreed upon, to provide the veteran with the opportunity to satisfy the certification requirements.

b. If additional experience or education is required for the veteran’s qualifications to be considered substantially equivalent, the veteran may request that the division issue a provisional license for a specified period of time, during which the veteran will successfully complete the necessary experience or education. The division shall issue a provisional license for a specified period of time upon such conditions as the division deems reasonably necessary to protect the health, welfare, or safety of the public unless the division determines that the deficiency is of a character that the public health, welfare, or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the division shall notify the veteran in writing, explaining the decision, and shall inform the veteran of the steps the veteran may take in order to receive a provisional license.

d. If a provisional license is issued, the application for full licensure is placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever comes first. The division may extend a provisional license on a case-by-case basis for good cause.

278.3(6) A veteran who is aggrieved by the division’s decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in the contested case by telephone. A request for a contested case shall be made within 30 days of the issuance of the division’s decision. There are no fees or costs assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

These rules are intended to implement Iowa Code section 272C.4.
Notice of Intended Action

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

The Department of Transportation hereby proposes to amend Chapter 4, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 305.15 and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 22.7(50), 80G.2 and 80G.3.

Purpose and Summary

The proposed amendments, which are explained more specifically below, rescind subrules 4.4(3) and 4.9(23) because they are no longer necessary, amend subrule 4.9(15) to conform to current Iowa Code language, and update the implementation sentence of rule 761—4.9(22) to include the applicable Iowa Code sections.

Subrule 4.4(3) concerns release of confidential records by the Director of Transportation. After review with the Attorney General’s Office, the Department determined that subrule 4.4(3) is unnecessary and that the procedure for records protected under Iowa Code chapter 22 is already comprehensively addressed in that Iowa Code chapter.

2017 Iowa Acts, chapter 122, sections 3 to 6, created Iowa Code chapter 80G, Undercover Law Enforcement — Privilege — Confidentiality. The proposed amendment to subrule 4.9(15) implements Iowa Code sections 80G.2 and 80G.3.

Subrule 4.9(23) concerns records which contain information relating to security procedures, emergency preparedness and disaster recovery. Iowa Code section 22.7(50) was amended by 2017 Iowa Acts, chapter 156, which removed a paragraph stating that Iowa Code section 22.7(50) only applied to information held by a government body that had adopted a rule or policy which identified the specific confidential records. Therefore, subrule 4.9(23), which includes the Department’s specific confidential records, is no longer needed.

The Records Commission approved the proposed amendments at its meeting held on February 8, 2019.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests
to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 27, 2019</td>
<td>10 a.m.</td>
<td>Department of Transportation Administration Building, First Floor South Conference Room 800 Lincoln Way Ames, Iowa</td>
</tr>
</tbody>
</table>

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

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

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

**ITEM 1.** Rescind and reserve subrule 4.4(3).

**ITEM 2.** Amend subrule 4.9(15), introductory paragraph, as follows:

4.9(15) **Certain** Privileged and personnel records or information of law enforcement officers and undercover law enforcement officers, as specified in Iowa Code sections 80G.2 and 80G.3, as well as certain records regarding undercover driver’s licenses issued to certified peace officers employed by a local authority or by the state or federal law enforcement officers, as specified in 761—Chapter 625. (Iowa Code sections 22.7, 80G.2, 80G.3 and 321.189A)

**ITEM 3.** Rescind and reserve subrule 4.9(23).

**ITEM 4.** Amend rule 761—4.9(22), implementation sentence, as follows:

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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


Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.189 and 321.445.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.176, 321.177, 321.182, 321.189, 321.196 and 321.445 and 2019 Iowa Acts, Senate File 304, section 3.

Purpose and Summary

The proposed rule making makes technical changes to Chapters 600 and 605 by relocating rules, currently found in Chapter 600, regarding persons exempt from driver’s licensing requirements and persons not to be licensed, and placing those rules into Chapter 605. The goal of the proposed amendments that relocate the affected rules from Chapter 600 to Chapter 605 is to gather all the rules relating to eligibility and ineligibility for issuance of a driver’s license into Chapter 605 to save the reader from having to review multiple chapters for pertinent information related to driver’s license issuance.

In addition, the proposed amendments update the definition of “qualified medical professional” to reference an advanced registered nurse practitioner’s being “licensed,” rather than “registered,” by the Board of Nursing and match the definition in Iowa Code section 152.1. The proposed amendments also amend subrule 605.11(2), which addresses criteria for replacing a driver’s license, to require a licensee to notify the Department of a residential address change but not require the licensee to provide two forms of proof of address, which is required when applying for a new license pursuant to subrule 601.5(3). This change reduces the chance that a licensee will be turned away for not having the necessary documentation to be issued a duplicate license by aligning with current Department practice of not requiring two forms of proof of address when a licensee is issued a duplicate license.

The proposed amendments rescind and do not transfer the content of existing subrule 600.4(9) to Chapter 605, but instead eliminate this subrule entirely. Currently, subrule 600.4(9) prohibits the Department from issuing a driver’s license to a person who is named on a certificate of noncompliance issued by the College Student Aid Commission for failure to satisfy student debt. 2019 Iowa Acts, Senate File 304, section 3, which will become effective July 1, 2019, eliminates the College Student Aid Commission’s authority to issue a certificate of noncompliance and trigger a license suspension for failure to satisfy student debt by repealing Iowa Code sections 261.121 through 261.127. The College Student Aid Commission has not exercised the option to trigger a license suspension for failure to satisfy student debt since 2012. It did not make sense for the Department to transfer and perpetuate a subrule that will no longer be authorized beginning July 1, 2019, so subrule 600.4(9) was not included in the rule reorganization. When Senate File 304 becomes effective, the Department will make necessary changes to other chapters in a subsequent rule making in order to implement Senate File 304.

The proposed amendments make other updates to Chapters 600 and 605 to correct an office name, a telephone number, and Iowa Code and rule citations.
The proposed amendments also make conforming amendments to rule citations in Chapters 602, 604 and 607.

_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.

_Public Comment_

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Strategic Communications and Policy Bureau  
800 Lincoln Way  
Ames, Iowa 50010  
Email: tracy.george@iowadot.us

_Public Hearing_

A public hearing to hear requested oral presentations will be held as follows:

<table>
<thead>
<tr>
<th>June 27, 2019</th>
<th>Department of Transportation</th>
<th>Motor Vehicle Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 p.m.</td>
<td>6310 SE Convenience Boulevard</td>
<td>Ankeny, Iowa</td>
</tr>
</tbody>
</table>

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

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

The public hearing will be canceled without further notice if no oral presentation is requested.

_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:
TRANSPORTATION DEPARTMENT[761](cont’d)

ITEM 1. Amend rule 761—600.1(321) as follows:

761—600.1(321) Definitions. The definitions in Iowa Code section 321.1 and the following definitions apply to the rules in 761—Chapters 600 to 699.

“Director of the office of driver and identification services bureau” includes the office bureau director’s designee.

“License” means “driver’s license” as defined in Iowa Code subsection section 321.1(252J,261,321) unless the context otherwise requires.

“Medical report” means a report from a qualified medical professional attesting to a person’s physical or mental capability to operate a motor vehicle safely. The report should be submitted on Form 430031, “Medical Report.” In lieu of Form 430031, a report signed by a qualified medical professional on the qualified medical professional’s letterhead may be accepted if it contains all the information specified on Form 430031.

“Qualified medical professional” means a person licensed as a physician under Iowa Code chapter 148, a person licensed as an advanced registered nurse practitioner under Iowa Code chapter 152 and registered with the board of nursing, or a person licensed as a physician assistant under Iowa Code chapter 148C, when practicing within the scope of the person’s professional licensure.

This rule is intended to implement Iowa Code section 321.1.

ITEM 2. Amend rule 761—600.2(17A) as follows:

761—600.2(17A) Information and location. Applications, forms and information concerning driver’s licensing are available at any driver’s license examination station service center. Assistance is also available by mail from the Office of 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 (800)332-1124 (515)244-8725; or by facsimile at (515)237-3074 (515)237-1837; or on the department’s website at www.iowadot.gov.

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

ITEM 3. Rescind rule 761—600.3(321).

ITEM 4. Rescind and reserve rule 761—600.4(252J,261,321).

ITEM 5. Renumber rule 761—600.16(321) as 761—600.3(321).

ITEM 6. Amend renumbered rule 761—600.3(321) as follows:

761—600.3(321) Seat belt exemptions.

600.3(1) A person who is unable to wear a safety belt or safety harness for physical or medical reasons may obtain a form to be signed by the person’s health care provider licensed under Iowa Code chapter 148 or 151. Form No. 432017, “Iowa Medical Safety Belt Exemption,” is available from the office of driver and identification services at the address in rule 761—600.2(17A) bureau.

600.3(2) Iowa Code section 321.445, subsections 1 and 2, sections 321.445(1) and 321.445(2) shall not apply to the front seats and front seat passengers of motor vehicles owned, leased, rented or primarily used by a person with a physical disability who uses a collapsible wheelchair.

This rule is intended to implement Iowa Code section 321.445.

ITEM 7. Amend paragraph 602.12(1)“b” as follows:

b. The license shall have one endorsement authorizing a specific type of motor vehicle or type of operation, as listed in 761—subrule 605.4(3) 605.7(3). The gross vehicle weight rating shall be determined pursuant to rule 761—604.35(321).

ITEM 8. Amend subrule 602.21(2) as follows:

602.21(2) Requirement. An applicant must submit a medical report pursuant to 761—subrule 600.4(6) as referenced in 761—subrule 605.4(6).
ITEM 9. Amend paragraph 604.31(1)“c” as follows:  
c. *Class D driver’s licenses.* For a Class D driver’s license, a driving test in a representative vehicle for the endorsement requested, as set out in 761—subrule 605.4(3) 605.7(3), is required.

ITEM 10. Renumber rules 761—605.2(321) to 761—605.6(321) as 761—605.5(321) to 761—605.9(321).

ITEM 11. Adopt the following new rules 761—605.2(321) to 761—605.4(252J,321):

761—605.2(321) Definitions. The definitions in Iowa Code section 321.1 and the following definitions apply to this chapter.

“License” means “driver’s license” as defined in Iowa Code section 321.1(20A) unless the context otherwise requires.

“Medical report” means a report from a qualified medical professional attesting to a person’s physical or mental capability to operate a motor vehicle safely. The report should be submitted on Form 430031, “Medical Report.” In lieu of Form 430031, a report signed by a qualified medical professional on the qualified medical professional’s letterhead may be accepted if it contains all the information specified on Form 430031.

“Qualified medical professional” means a person licensed as a physician under Iowa Code chapter 148, a person licensed as an advanced registered nurse practitioner under Iowa Code chapter 152 and licensed with the board of nursing, or a person licensed as a physician assistant under Iowa Code chapter 148C, when practicing within the scope of the person’s professional licensure.

This rule is intended to implement Iowa Code section 321.1.

761—605.3(321) Persons exempt.

605.3(1) Persons listed in Iowa Code section 321.176 are exempt from driver’s licensing requirements.

605.3(2) “Nearby” in Iowa Code section 321.176(2) shall mean a distance of not more than two miles.

This rule is intended to implement Iowa Code section 321.176.

761—605.4(252J,321) Persons not to be licensed.

605.4(1) The department shall not knowingly issue a license to any person who is ineligible for licensing.

605.4(2) The department shall not knowingly license any person who is unable to operate a motor vehicle safely because of physical or mental disability until that person has submitted a medical report stating that the person is physically and mentally capable of operating a vehicle safely.

605.4(3) The department shall not knowingly license any person who has been specifically adjudged incompetent, pursuant to Iowa Code chapter 229, on or after January 1, 1976, including anyone admitted to a mental health facility prior to that date and not released until after, until the department receives specific adjudication that the person is competent. A medical report stating that the person is physically qualified to operate a motor vehicle safely shall also be required.

605.4(4) The department shall not knowingly license any person who suffers from syncope of any cause, any type of periodic or episodic loss of consciousness, or any paroxysmal disturbances of consciousness, including but not limited to epilepsy, until that person has not had an episode of loss of consciousness or loss of voluntary control for six months, and then only upon receipt of a medical report favorable toward licensing.

a. If a medical report indicates a pattern of only syncope, the department may license without a six-month episode-free period after favorable recommendation by the medical advisory board.

b. If a medical report indicates a pattern of such episodes only when the person is asleep or is sequestered for sleep, the department may license without a six-month episode-free period.

c. If an episode occurs when medications are withdrawn by a qualified medical professional, but the person is episode-free when placed back on medications, the department may license without a six-month episode-free period with a favorable recommendation from a neurologist.
TRANSPORTATION DEPARTMENT[761](cont’d)

d. If a medical report indicates the person experienced a single nonrecurring episode, the cause has been identified, and the qualified medical professional is not treating the person for the episode and believes it is unlikely to recur, the department may license without the six-month episode-free period with a favorable recommendation from a qualified medical professional.

605.4(5) The department shall not license any person who must wear bioptic telescopic lenses to meet the visual acuity standard required for a license.

605.4(6) When a medical report is required, a license shall be issued only if the report indicates that the person is qualified to operate a motor vehicle safely. The department may submit the report to the medical advisory board for an additional opinion.

605.4(7) When the department receives evidence that an Iowa licensed driver has been adjudged incompetent or is not physically or mentally qualified to operate a motor vehicle safely, the department shall suspend the license for incapability, as explained in rule 761—615.14(321), or shall deny further licensing, as explained in rule 761—615.4(321).

605.4(8) The department shall not knowingly issue a license to a person who is the named individual on a certificate of noncompliance that has been received from the child support recovery unit, until the department receives a withdrawal of the certificate of noncompliance or unless an application has been filed pursuant to Iowa Code section 252J.9.

This rule is intended to implement Iowa Code sections 252J.8, 252J.9, 321.13, 321.177, 321.210, and 321.212.

ITEM 12. Amend renumbered rule 761—605.5(321), introductory paragraph, as follows:

761—605.5(321) Contents of license. In addition to the information specified in Iowa Code subsection section 321.189(2), the following information shall be shown on a driver’s license.

ITEM 13. Amend renumbered subparagraph 605.8(6)“b”(1) as follows:

(1) If a person is licensed pursuant to 761—subrule 600.4(4) subrule 605.4(4), the department shall issue the first driver’s license with a restriction stating: “Medical report to be furnished at the end of six months.”

ITEM 14. Renumber existing rule 761—605.9(321) as 761—605.10(321).

ITEM 15. Amend paragraph 605.11(2)“b” as follows:

b. Replacement to change the current residential address on a license. The licensee shall comply with the requirements of 761—subrule 605.5(3) to establish a change of current residential address notify the department to establish the current residential address.

ITEM 16. Amend paragraph 605.11(2)“j” as follows:

j. Replacement to add a veteran designation to the license. To be eligible for a veteran designation, the licensee must comply with the requirements of paragraph 605.2(7)“a.” 605.5(7)“e.”

ITEM 17. Amend rule 761—607.18(321), introductory paragraph, as follows:

761—607.18(321) Restrictions. The restrictions that may limit commercial motor vehicle operation with a commercial driver’s license are listed in 761—subrule 605.5(3) 605.8(3) and are explained below:

ARC 4469C

UTILITIES DIVISION[199]

Notice of Termination

Terminating rule making related to rate cases, tariffs, and rate regulation

The Utilities Board hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on October 10, 2018, as ARC 4046C, proposing to amend Chapter 26, “Rate Cases, Tariffs, and Rate Regulation Election Practice and Procedure,” Iowa Administrative Code.
UTILITIES DIVISION[199](cont’d)

Legal Authority for Rule Making

The above-mentioned rule making is terminated under the authority provided in Iowa Code sections 474.5, 476.2 and 476.33.

Purpose and Summary

The proposed rule making would have updated the Utilities Board rules on rate case procedures and implemented the future test year provisions of Iowa Code section 476.33. On May 8, 2019, the Board issued an order terminating rule making. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0027.

Reason for Termination

Since the proposed amendments were published, two applications to increase rates based upon a future test year were filed with the Utilities Board. The proposed amendments had requirements for future test year filings; however, once the two applications were filed, the Utilities Board determined that the requirements in the proposed amendments were not comprehensive and did not provide sufficient information to the Utilities Board and parties to contested case proceedings. The Board will be opening a new rule making proceeding with additional requirements for future test year applications. Pursuant to the authority of Iowa Code section 17A.4(1)“b,” the Board has terminated the proposed rule making.

Jobs Impact

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

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).

ARC 4472C

WORKERS’ COMPENSATION DIVISION[876]

Notice of Intended Action

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


Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 85 and section 86.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 85.26, 85.27, 86.8, 86.13, 86.18, 86.24, 86.40, and 87.22.
Purpose and Summary

These proposed amendments will facilitate electronic filing of claims and EDI information and provide for electronic filing in contested cases.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to rule 876—12.4(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Division no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

James Elliott
Division of Workers’ Compensation
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.725.3829
Fax: 515.281.6501
Email: james.elliott@iwd.iowa.gov

Public Hearing

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

June 25, 2019 Room 106
9:30 a.m. 150 Des Moines Street
Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Division 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. Adopt the following new rule 876—2.5(85,85A,85B,86):

876—2.5(85,85A,85B,86) Use of workers’ compensation electronic system (WCES) for submission of filings. The division of workers’ compensation requires the filing of electronic data interchange (EDI) information, forms, petitions, pleadings, responses, and any other submissions to be effectuated by use of the workers’ compensation electronic system (WCES). The website address for WCES is efile.iowaworkcomp.gov. The division of workers’ compensation may provide exceptions to the mandatory use of WCES in contested claims. Any electronic filing that is quarantined due to a virus will not be considered received.

2.5(1) The division of workers’ compensation shall grant exceptions for filing in WCES for good cause, such as a power outage at the filer’s office or home.

2.5(2) The division of workers’ compensation shall grant exceptions for part or the duration of a case for good cause, such as when a filer cannot use a computer or does not have regular access to the Internet at home through a device capable of displaying documents. This inability to file in or follow the case could put a filer at a disadvantage before the agency. Only a deputy workers’ compensation commissioner or the workers’ compensation commissioner can grant an exception for the duration of a case.

2.5(3) The commissioner or the commissioner’s designee shall allow the filing of paper documents in case of a systemic failure of WCES.

This rule is intended to implement Iowa Code chapters 85, 85A, 85B and 86.

ITEM 2. Adopt the following new rule 876—2.7(86):

876—2.7(86) Official record. The electronic record made and maintained by the division of workers’ compensation is the official record of a case unless different means are ordered by the commissioner or deputy commissioner or unless a proceeding is not required to use WCES. The division may require parties to scan and file in WCES pleadings, exhibits and other records that were filed as paper documents before the establishment of WCES.

This rule is intended to implement Iowa Code chapters 85, 85A, 85B and 86.

ITEM 3. Adopt the following new rule 876—2.8(86):

876—2.8(86) Document requirements. Pleadings, responses to pleadings, exhibits, and transcripts submitted to the division of workers’ compensation shall be scanned, attached, and filed in portable document format (pdf) or as image-on-text documents (searchable pdf). A hearing report or proposed order or proposed ruling shall be submitted in Microsoft Word format. Transcripts submitted shall include an index. Filings shall not exceed 30 megabytes (MB). Documents exceeding 30 MB shall be divided and submitted as separate attachments to comply with this size limit. All filings pursuant to this rule shall be submitted via WCES unless otherwise ordered by the workers’ compensation commissioner, a deputy workers’ compensation commissioner or other agency staff who have been delegated authority by the commissioner. Audio or video files shall use MP3 or MP4 format and should be submitted with a virus-scanned USB drive or DVD and shall not exceed 500 MB for each filing.

This rule is intended to implement Iowa Code chapters 85, 85A, 85B and 86.

ITEM 4. Adopt the following new rule 876—2.9(86):

876—2.9(86) Effective date of WCES rules. All rules and forms of the division of workers’ compensation that relate to WCES shall be effective July 16, 2019, for EDI filing and July 22, 2018, for filing in claims before the agency, or when WCES is available to the public, whichever is later.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 5. Amend subrule 3.1(2) as follows:

3.1(2) Subsequent report of injury (SROI).

a. The subsequent report of injury (SROI) provides for filing of notice of commencement of payments, correcting erroneous claim information, supplying additional information, denying
compensability, agreeing to the weekly benefit rate and agreeing to make payments under the Workers’ Compensation Act, reporting the status of a claim, or recording benefits paid. Notice of commencement of payments shall be filed within 30 days of the first payment. When liability on a claim is denied, a letter shall be sent to claimant stating reasons for denial. The subsequent report of injury (SROI) shall also be filed when compensation is terminated or interrupted. Medical data supporting the action taken shall be filed when temporary total disability or temporary partial disability exceeds 13 weeks or when the employee sustains a permanent disability. In the event the transmission of a subsequent report of injury (SROI) contains errors (TE), the errors shall be corrected within 15 days of the date of notification by the agency.

b. The employer and insurance carrier who are required to file medical data shall file the medical data in WCES. The employer or insurance carrier or the employer’s or insurance carrier’s agent shall register in WCES to file the medical data. The filer will receive a status update for the information the filer submits based upon the status the filer selects and is approved for in WCES.

ITEM 6. Rescind and reserve subrule 3.1(6).

ITEM 7. Amend subrule 3.1(7) as follows:

3.1(7) Form—original notice and petition. The following forms are types of original notice and petition: original notice and petition—Form 100 (Form No. 14-0005); original notice, petition, answer and order concerning independent medical examination—Form 100A (Form No. 14-0007); answer and order concerning independent medical examination—Form 100A (Form No. 14-0007A); original notice, petition, answer and order concerning vocational rehabilitation program benefit—Form 100B (Form No. 14-0009); answer concerning vocational rehabilitation program benefit—Form 100B (Form No. 14-0009A); original notice, petition, and answer concerning application for alternate medical care—Form 100C (Form No. 14-0011); answer concerning application for alternate medical care—Form 100C (Form No. 14-0011A); original notice, petition, and answer concerning application for vocational training and education—Form 100D (Form No. 14-0012); answer concerning application for vocational training and education—Form 100D (Form No. 14-0012A); original notice and petition for full commutation of all remaining benefits of ten weeks or more 876 IAC 6.2(6)—Form 9 (Form No. 14-0013); checklist for full commutation (Form No. 14-0015); original notice and petition and order for partial commutation—Form 9A (Form No. 14-0017); and checklist for partial commutation (Form No. 14-0019). See rule 876—4.6(85,86,17A) for further descriptions.

ITEM 8. Amend subrule 3.1(8) as follows:

3.1(8) Form No. 14—subpoena. (Form No. 14-0035) This form is the witness subpoena, which is used to require a witness to appear and testify. Form No. 14-0033 is, and the Subpoena Ducès Tecum, which is used to require a witness to appear and to bring specified books and records.

ITEM 9. Rescind and reserve subrule 3.1(14).

ITEM 10. Adopt the following new subrule 3.1(26):

3.1(26) Form—application to defer payment of filing fees, financial affidavit and order. (Form No. 14-0075) This form is used to request a deferral of payment of filing fees. This form is not initially filed through WCES.

ITEM 11. Adopt the following new subrule 3.1(27):

3.1(27) Form—claimant’s confidential information sheet. (Form No. 14-0171) This form is used to provide details about the claimant’s identifying information so that claims may be matched in WCES. This form is required to be filed by a claimant when the claimant is excused from using WCES.

ITEM 12. Adopt the following new subrule 3.1(28):

3.1(28) Form—nonelection of workers’ compensation or employers’ liability coverage. (Form No. 14-0175) This form is used for exclusion from liability coverage pursuant to Iowa Code section 87.22.
ITEM 13. Adopt the following new subrule 3.1(29):

3.1(29) Form—application to be excused from filing in WCES. (Form No. 14-0176) This form is used by a self-represented party to request permission to file and serve documents in paper form and be excused from using WCES.

ITEM 14. Amend rule 876—4.3(85,85A,86,87), introductory paragraph, as follows:

876—4.3(85,85A,86,87) Compliance proceedings. If the workers’ compensation commissioner shall have reason to believe that there has not been compliance with the workers’ compensation law by any person or entity, the commissioner may on the commissioner’s own motion give notice to the person or entity and schedule a hearing for the purpose of determining whether or not there has been compliance by the person or entity. The notice shall state the time and place of the hearing and a brief statement of the matters to be considered. The notice of hearing may be given by ordinary mail or by WCES if the alleged noncompliant person or entity is registered in WCES and is currently participating in a contested case using WCES and may be given to the insurer for the employer in lieu of the employer as permitted by Iowa Code section 87.10 if the insurer has filed a report, pleading or motion that acknowledges that it is the insurer for the claim at issue. Following the hearing, the commissioner may issue a finding regarding compliance. In the event a failure to comply is found, the commissioner may impose sanctions in accordance with Iowa Code sections section 86.12, 86.13 or 86.13A or order compliance within a specified time and under specified circumstances. The workers’ compensation commissioner may file a certified copy of the order in an appropriate district court and may file a certified copy of the order with the Iowa insurance division [commerce department] of the department of commerce with a request for action by the insurance division upon failure to comply with the order.

ITEM 15. Amend rule 876—4.7(86,17A), introductory paragraph, as follows:

876—4.7(86,17A) Delivery of notice, orders, rulings and decisions. Delivery of the original notice shall be made by the petitioning party as provided in Iowa Code section 17A.12(1) except that a party may deliver the original notice on a nonresident employer as provided in Iowa Code section 85.3. A proposed or final decision, order or ruling may be delivered by the division of workers’ compensation to any party by regular mail, by email or by WCES. Filing of a notice, ruling and decision in WCES is the official filing and start of any appeal or motion deadline. Parties registered in WCES for a claim will be sent a courtesy email informing the parties of a filing. On or after July 1, 2009, a proposed or final decision, order or ruling may be delivered by the division of workers’ compensation to any party by email.

ITEM 16. Amend subrule 4.8(2) as follows:

4.8(2) Filing fee.
- No change.
- One filing fee shall be required for as many original notices and petitions as are filed on the same day on account of one employee against a single alleged employer or against entities alleged to be employers in the alternative or alleged to be dual employers. Each original notice and petition filed, as required in paragraph 4.8(2)“a.” If filing fees have been overpaid, the amount overpaid shall be refunded to the party who made the overpayment.
- No change.
- The filing fee shall be paid at the same time the petition is filed. The filing fee shall be paid electronically with a credit card or electronic check or by other electronic means as allowed by WCES. Checks should be made payable to the “Iowa Division of Workers’ Compensation.” If the payment of the filing fee is made by an insufficient funds check or a check on which payment is stopped or a check on which payment is otherwise not honored, it will be treated as a failure to pay the correct filing fee. See 4.8(2)“e.” One check may be submitted for payment of more than one filing fee if more than one filing fee is due from a petitioner for cases filed on account of an employee. Separate checks must be submitted for each petitioner’s case or cases. Nonelectronic payment will not be accepted without an
order granting permission for nonelectronic payment. Any statute of limitations is not tolled if a party has requested nonelectronic payment and is awaiting an order.

h. The workers’ compensation commissioner may accept for filing an original notice and petition without prepayment of the filing fee if in the discretion of the workers’ compensation commissioner the petitioner is unable to pay the fee at the time of filing. A deferral of payment of the filing fee shall only be granted upon written application by the petitioner. The application shall be filed at the same time the original notice and petition is filed. The application shall include the form required by the workers’ compensation commissioner and shall include an affidavit signed by the petitioner. When payment of the filing fee is deferred, provisions for payment of the filing fee must be included in any settlement submitted to the workers’ compensation commissioner for approval or taxed as costs. When the application for deferral of payment of the filing fee is denied, the filing fee shall be paid as ordered. See 4.8(2)“e.” The form for the application deferral of prepayment of fees (Form No. 14-0075) shall not be filed using WCES. The document shall be filed in paper form. If the request for deferral of fees is granted, a claim will be established in WCES. Parties to the claim shall use WCES for future filings, unless a party has been excused from using WCES.

i. Rescinded IAB 1/29/97, effective 3/5/97.

j. Parties shall use the payment gateway in WCES to pay filing fees, unless an order has been issued allowing deferral of the payment of the filing fee or payment outside of WCES. In addition to the filing fee, the parties shall pay the convenience fee charged by the financial institution that is processing payment for WCES. This cost may be recoverable under rule 876—4.33(86).

ITEM 17. Amend rule 876—4.9(17A), introductory paragraph, as follows:

876—4.9(17A) Appearance and responses, pleading, and pleadings. Motions and settlements. Responses. Appearances and responses to pleadings and motions shall be made as follows:

Using the Iowa division of workers’ compensation’s WCES. Registration with the Iowa division of workers’ compensation’s WCES is required. Registration is accepted at ef ile.iowaworkcomp.gov. After a matter has been commenced and the respondent has been served with original notice and filed an answer or appearance, subsequent filings or submissions in WCES do not require proof of service to parties of record who are registered with WCES. Attorneys will need to use the AT pin or pro hac vice pin assigned by the Iowa Supreme Court to be associated with a case in WCES. When an attorney is not representing a party, the employer or insurance carrier or the employer’s or insurance carrier’s agent or claimant shall register in WCES to file the settlement or medical data pursuant to 876—the rule 3.1(2). The filer will receive a status update for the information the filer submits based upon the status the filer selects when registering in WCES.

ITEM 18. Amend subrule 4.9(1) as follows:

4.9(1) Respondent—appearance. A respondent shall appear by filing an answer or a motion within 20 days after the service of the original notice and petition upon the respondent. The appearance shall include the email address and the fax number of the respondent, if available, if the respondent is not represented by counsel. The caption of an answer shall disclose the file number of the compliance file in which the first report of injury was filed for the injury that is alleged in the original notice and petition. A respondent shall file a response by answer or motion by using WCES for all claims in which a petition was filed within WCES, unless permission has been granted to be excused from using WCES.

ITEM 19. Amend subrule 4.9(6) as follows:

4.9(6) Form, submission and ruling on motions. All motions, including pre-answer motions, and motions for summary judgment and applications for adjudication of law points, shall have appended to them a concise memorandum brief and argument. All motions and applications for adjudication of law points except motions for summary judgment shall be deemed submitted without hearing on the record presented on the tenth day following filing. Motions for summary judgment shall be deemed submitted as provided in Iowa Rule of Civil Procedure 1.981. Resistances to motions and applications for adjudication of law points shall have appended to them a concise memorandum brief and argument,
and shall be filed on or before the date of submission. Briefs and arguments are waived unless appended to the motion, application or resistance.

An order may be entered consolidating any motion for ruling with hearing of the contested case. Any party desiring a ruling on a motion prior to hearing may concisely set forth the necessity of prior ruling in the motion, application or resistance. If a pre-answer motion alleging lack of jurisdiction is overruled or consolidated with hearing of the contested case, the party shall plead to the merits and proceed to hearing of the contested case without submitting to the jurisdiction of the workers’ compensation commissioner. If a motion attacking a pleading is consolidated with hearing of the contested case, the party shall respond to the pleading in the same manner as if the motion had been overruled.

ITEM 20. Amend subrule 4.9(8) as follows:

4.9(8) **Withdrawal of counsel.** Counsel may withdraw if another counsel has appeared or if the client’s written consent accompanies the withdrawal.

Under all other circumstances, counsel may withdraw only upon the order of the workers’ compensation commissioner after making written application. Counsel shall give the client written notice that the client has the right to object to the withdrawal by filing written objections and a request for a hearing to the Division of Workers’ Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319, when filing by mail, or 150 Des Moines Street, Des Moines, Iowa 50319, when filing in person, within ten days following the date the notice was mailed or personally delivered to the client. The client’s response does not need to be filed in WCES but may be mailed or delivered to the division. Counsel’s application shall be accompanied by proof that a copy of the application and notice was sent by certified mail addressed to the client’s last-known address or was delivered to the client personally. If no objections are timely filed, the withdrawal will become effective when approved by the workers’ compensation commissioner. If objections are timely filed, a hearing on the application will be held. No withdrawal under this subrule will be effective without the approval of the workers’ compensation commissioner. The filing of an application to withdraw stays all pending matters until a ruling is made on the application.

ITEM 21. Adopt the following **new** subrule 4.9(10):

4.9(10) **Pro hac vice.** An out-of-state attorney desiring to appear pro hac vice in an Iowa division of workers’ compensation case is required to access the office of professional regulation (OPR)/supreme court commissions (SCC) website, submit certain personal information to complete pertinent fields in the lawyer database, and pay a fee that will be deposited in the client security trust fund. The registration and fee payment allow the attorney to apply to appear pro hac vice in Iowa division of workers’ compensation cases, subject to the limits and requirements of Iowa Court Rule 31.14, for a period of up to five years from the date of registration. Attorneys who register and pay the fee appear in the OPR/SCC database with the status of “pro hac vice.” The Iowa division of workers’ compensation will request from the Iowa courts that a pro hac vice number be issued and will provide that number to the out-of-state attorney for registration with WCES. The affiliated in-state attorney shall file in WCES the application to appear pro hac vice completed the out-of-state attorney using a pleading that is substantially similar to Iowa Court Rule 31.25—Form 1.

ITEM 22. Amend rule 876—4.11(86), introductory paragraph, as follows:

876—4.11(86) **Signatures on documents and papers.** All documents and papers required by these rules, the Iowa rules Rules of civil procedure Civil Procedure as applicable, or a statutory provision shall be signed by the party if unrepresented or the party’s attorney if represented. The party’s signature in addition to the attorney’s signature shall be necessary only when otherwise required by these rules, the Iowa rules Rules of civil procedure Civil Procedure as applicable, and any statutory provision. 725 I.A.C. 10—305 concerning signatures is applicable to WCES.

ITEM 23. Amend rule 876—4.13(86), introductory paragraph, as follows:

876—4.13(86) **Method of service.** Except as provided in 876—4.6(85,86,17A) and 876—4.7(86,17A), service of all documents and papers to be served according to 876—4.12(86) and 876—4.18(85,86,17A)
or otherwise upon a party represented by an attorney shall be made upon the attorney unless service upon the party is ordered by the workers’ compensation commissioner. Service upon the attorney or party shall be made by delivery of a copy to or mailing a copy to the last known address of the attorney or party, or if no address is known, by filing it with the division of workers’ compensation using WCES once a party or party’s attorney has registered in WCES for the claim being contested. If a party has been allowed to not file with WCES or if a party or attorney has not appeared in WCES, service upon the attorney or party shall be made by delivery of a copy or mailing a copy to the last-known address of the attorney or party or, if no address is known, by filing it with the division of workers’ compensation. Delivery of a copy within this rule means: Handing it to the attorney or party; leaving it at the office of the attorney or party’s office or with the person in charge of the office; or if there is no one in charge of the office, leaving it in a conspicuous place in the office; or if the office is closed or the person to be served has no office, leaving it at the person’s dwelling house, or usual place of abode with some person of suitable age and discretion who is residing at the dwelling or abode. Service by mail under this rule is complete upon mailing. Documents that are served on a party for discovery and medical evidence under 876—4.14(86) and 876—4.18(17A,85,86) are not to be filed with the division of workers’ compensation. No documents or papers referred to in this rule shall be served by the workers’ compensation commissioner.

**ITEM 24.** Amend rule 876—4.15(86), introductory paragraph, as follows:

876—4.15(86) Proof of service. Proof of service of all documents and papers to be served on another party under 876—4.12(86) shall be filed with the division of workers’ compensation promptly, and, in any event, before action is to be taken thereon by the workers’ compensation commissioner or any party unless a responsive pleading has been filed. The Proof shall be made by filing the document in WCES when another party is registered in WCES for that claim. If a party or a party’s attorney or representative is not in WCES for the claim being contested, the proof shall show the date and manner of service and may be by written acknowledgment of service, by certification of a member of the bar of this state, by affidavit of the person who served the papers, or by any other proof satisfactory to the workers’ compensation commissioner.

**ITEM 25.** Amend subrule 4.19(3) as follows:

4.19(3) For contested cases that were filed on or after July 1, 2004, the following time limits govern prehearing procedure, completion of discovery and case management in contested cases, except proceedings under rules 876—4.46(17A,85,86) and 876—4.48(17A,85,86) and except when otherwise ordered by the workers’ compensation commissioner or a deputy workers’ compensation commissioner.

a. Within 120 days, but not less than 60 days, following filing of a petition, the counsel of record for all parties and all pro se litigants shall request a hearing by using WCES when this function is available to the public in WCES. In a case for which permission has been granted to be excused from using WCES, counsel of record for all parties and all pro se litigants shall jointly contact the hearing administrator by telephone at (515) 281-6621, 725-3891 between the hours of 8:30 a.m. and 11 a.m. central time, Monday through Friday, excluding holidays, or by email at dwc.hearing@iwd.state.ia.us to schedule a hearing date, place and time. Claimant has primary responsibility for initiating the contact. The parties shall identify the case by file number and the names of the parties and request that the hearing be set at a specific date, place and time that is shown to be available on the hearing scheduler published on the division’s website. Primary and backup times must be requested for hearings in venues other than Des Moines. When the contact is made by email, a copy of the request shall be sent to each opposing party, and the hearing administrator will reply indicating whether or not the case is assigned at the time requested. If a request is denied, the parties shall continue to contact the hearing administrator by telephone or email until the case is scheduled or a prehearing conference is ordered. A joint scheduling contact may be initiated by any party at any other time agreeable to the parties. If more than 120 days have elapsed since the petition was filed, any party may move to schedule the hearing at a particular date, time and place that is available and the hearing administrator may assign the case for hearing at that any date, time and place. The hearing date shall be within 12 months following the date the petition was filed or as soon thereafter as reasonably practicable as determined by the hearing administrator. If the parties
fail to schedule the hearing with the hearing administrator, the case will be scheduled at the discretion of the hearing administrator without prior notice to the parties.

b. and c. No change.

d. At least 30 days before hearing, counsel of record and pro se litigants shall serve a witness and an exhibit list on all opposing counsel and pro se litigants and exchange all intended exhibits that were not previously required to be served. The witness list shall name all persons, except the claimant, who will be called to testify at the hearing or who will be deposed prior to the hearing in lieu of testifying at the hearing. The witness and exhibit lists are not filed in WCES. If the exhibit list does not contain actual exhibits, the exhibit list must specifically identify each exhibit in a way that permits the opposing party to recognize the exhibit. The description for a document should include the document’s date, number of pages and author or source. Exhibits that were specifically identified when served pursuant to rule 876—4.17(17A,85,86) or in a discovery response may be collectively identified by describing the service such as “exhibits described in the notices served pursuant to rule 876—4.17(17A,85,86) on May 7, June 11 and July 9, 2004.” Blanket references such as “all medical records,” “personnel file” or “records produced during discovery” do not specifically identify an exhibit. A party may serve a copy of the actual intended exhibits in lieu of an exhibit list. At least 14 days before hearing, counsel of record and pro se litigants shall file proposed exhibits in WCES or, if the counsel of record and pro se litigants are excused from using WCES, shall file with the division. Counsel of record and pro se litigants shall file all written objections and motions to exclude evidence at least 7 days before the hearing. Objections to exhibits are waived if they are not filed at least 7 days before the hearing. Evidentiary depositions pursuant to Iowa Code section 86.18(2) may be taken at any time before the hearing in lieu of the witness testifying at the hearing.

e. If evidence is offered at hearing that was not disclosed in the time and manner required by these rules, as altered by order of the workers’ compensation commissioner or a deputy workers’ compensation commissioner or by a written agreement by the parties, the evidence will be excluded if the objecting party shows that receipt of the evidence would be unfairly prejudicial. Sanctions may be imposed pursuant to 876—4.36(86) in addition to or in lieu of exclusion if exclusion is not an effective remedy for the prejudice. If a party offers an exhibit or document in paper form which is accepted by the workers’ compensation commissioner or a deputy workers’ compensation commissioner, the party shall have five working days to submit an electronic copy of the document by using WCES.

f. Counsel. At least 14 days before the hearing, counsel of record and pro se litigants shall prepare and file a joint hearing report that defines the claims, defenses, and issues that are to be submitted to the deputy commissioner who presides at the hearing. The hearing report shall be filed in Microsoft Word format as a proposed hearing report. After the hearing report is finalized at the hearing, the deputy commissioner or a party shall save and file the completed hearing report as a pdf or scanned document in WCES. The hearing report shall be signed by all counsel of record and pro se litigants and submitted to the deputy when the hearing commences.

g. If a filer is unable to meet a nonjurisdictional filing deadline because of a technical failure in WCES, the filer must file the document using the earliest available electronic or nonelectronic means. The filing of the document will be accepted by the division of workers’ compensation as timely unless the commissioner or deputy commissioner determines that the untimely filing of the document should not be excused.

h. Jurisdictional deadlines, including but not limited to any applicable statute of limitations, cannot be extended. It is the filer’s responsibility to ensure that a document is filed timely to comply with jurisdictional deadlines. A technical failure, including a failure of WCES, will not excuse a failure to comply with a jurisdictional deadline.

i. A filer is not excused from missing a jurisdictional or nonjurisdictional filing deadline because of problems attributable to the filer (such as telephone line problems, problems with the filer’s Internet service provider, hardware problems, software problems, etc.).
ITEM 26. Amend rule 876—4.24(17A,86) as follows:

**876—4.24(17A,86) Rehearing.** Any party may file an application for rehearing of a proposed decision in any contested case by a deputy commissioner or a decision in any contested case by the workers’ compensation commissioner within 20 days after the issuance of the decision. A party has been allowed to file not using WCES or a party to the claim is not in WCES, a copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. An application for rehearing shall be deemed denied unless the deputy commissioner or workers’ compensation commissioner rendering the decision grants the application within 20 days after its filing. For purposes of this rule, motions or requests for reconsideration or new trial or retrial or any reexamination of any decision, ruling, or order shall be treated the same as an application for rehearing.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 27. Amend subrule 4.28(2) as follows:

4.28(2) Cross-appeals. In the event of a cross-appeal, appellee (cross-appellant) shall serve its brief within 20 days after service of the brief of appellant. Appellant (cross-appellee) shall serve its responsive reply brief within 20 days after service of the brief of appellee. Appellee (cross-appellant) may serve a reply brief within 10 days after service of appellant’s reply brief. When both parties appeal, the first to serve notice of appeal shall be appellant unless both serve their notice on the same day, in which case the claimant shall be appellant. When more than one party appeals, the party filing the first notice of appeal will be designated the appellant and the party filing a subsequent notice of appeal will be designated the cross-appellant.

ITEM 28. Amend rule 876—4.29(86,17A), introductory paragraph, as follows:

**876—4.29(86,17A) Review upon motion.** Except as provided in 876—4.25(17A,86) the commissioner may review the decision, order or ruling of a deputy commissioner in any contested case upon the commissioner’s own motion. Except as provided in 876—4.25(17A,86), the motion to review a decision, order or ruling in all contested cases must be filed within 20 days of the filing of the decision, order or ruling. The commissioner shall specify in a notice filed in WCES or mailed to the parties by certified mail, return receipt requested, on the date of filing of the motion the issues to be reviewed and the additional evidence, if any, to be obtained by the parties. The hearing under this rule shall be heard in Polk County or in any locality designated by the workers’ compensation commissioner.

ITEM 29. Amend rule 876—4.33(86), introductory paragraph, as follows:

**876—4.33(86) Costs.** Costs taxed by the workers’ compensation commissioner or a deputy commissioner shall be (1) attendance of a certified shorthand reporter or presence of mechanical means at hearings and evidentiary depositions, (2) transcription costs when appropriate, (3) costs of service of the original notice and subpoenas, (4) witness fees and expenses as provided by Iowa Code sections 622.69 and 622.72, (5) the costs of doctors’ and practitioners’ deposition testimony, provided that said costs do not exceed the amounts provided by Iowa Code sections 622.69 and 622.72, (6) the reasonable costs of obtaining no more than two doctors’ or practitioners’ reports, (7) filing fees when appropriate, including convenience fees incurred by using the WCES payment gateway, and (8) costs of persons reviewing health service disputes. Costs of service of notice and subpoenas shall be paid initially to the serving person or agency by the party utilizing the service. Expenses and fees of witnesses or of obtaining doctors’ or practitioners’ reports initially shall be paid to the witnesses, doctors or practitioners by the party on whose behalf the witness is called or by whom the report is requested. Witness fees shall be paid in accordance with Iowa Code section 622.74. Proof of payment of any cost shall be filed with the workers’ compensation commissioner before it is costs are taxed. The party initially paying the expense shall be reimbursed by the party taxed with the cost. If the expense is unpaid, it shall be paid by the party taxed with the cost. Costs are to be assessed at the discretion of the deputy commissioner or workers’ compensation commissioner hearing the case unless otherwise required by the rules of civil procedure Iowa Rules of Civil Procedure governing discovery.
ITEM 30. Amend rule 876—4.39(17A,86) as follows:

876—4.39(17A,86) Filing by facsimile transmission (fax). All When permission has been granted to be excused from using WCES, all documents filed with the agency pursuant to this chapter and Iowa Code section 86.24 except an original notice and petition requesting a contested case proceeding (see Iowa Code section 17A.12(9)) may be filed by facsimile transmission (fax). A copy shall be filed for each case involved. A document filed by fax is presumed to be an accurate reproduction of the original. If a document filed by fax is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax is the date the document is received by the agency. The agency will not provide a mailed file-stamped copy of documents filed by fax. The agency fax number is (515)281-6501.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 31. Amend subrule 4.48(8) as follows:

4.48(8) Notice of hearing. The workers’ compensation commissioner will notify the parties by ordinary mail, or by facsimile transmission (fax) or by WCES of the time, place and nature of hearing. No notice will be made until a proper application is received by the workers’ compensation commissioner. The notice will specify whether the hearing will be by telephone, or in person or by other digital means.

ITEM 32. Amend subrule 4.48(12) as follows:

4.48(12) Hearing. The hearing will be held either by telephone, or in person or by other digital means in Des Moines, Iowa. The employer shall have the right to request an in-person hearing if the employee has requested a telephone hearing in the application. The employer shall on the record respond to the allegations contained in the application. The hearing will be electronically recorded. If there is an appeal of a proposed decision or judicial review of final agency action, the appealing party is responsible for filing a transcript of the hearing.

If the hearing was electronically recorded, copies of the tape recording will be provided to the parties. A transcript shall be provided by the appealing party pursuant to Iowa Code subsection section 86.24(4) and a copy thereof shall be served on the opposing party at the time the transcript is filed with the workers’ compensation commissioner unless the parties submit an agreed-upon transcript. If a party disputes the accuracy of any transcript prepared by the opposing party, that party shall submit its contentions to the workers’ compensation commissioner for resolution. Any transcription charges incurred by the workers’ compensation commissioner in resolving the dispute shall be initially paid pursuant to Iowa Code subsection section 86.19(1) by the party who disputes the accuracy of the transcript prepared by the appellant.

ITEM 33. Amend subrule 4.50(3) as follows:

4.50(3) Application for vocational training and education.

a. An application shall:

(1) Only concern the issue of vocational training, education, and supplies;

(2) Be filed on the form provided by the division of workers’ compensation;

(3) State the reasons for the application;

(4) Be served on the other party;

(5) Contain a proof of service on the other party; and

(6) Specify whether a telephone or in-person hearing is requested.

b. An application for vocational training and education must be filed in WCES unless permission has been granted to file paper documents. Applicant(s) must serve a copy of this form on the appellee(s) by certified mail, return receipt requested, or by personal service as in civil actions in accordance with rule
876—4.7(86,17A) and mail a copy to the attorney of record for the appellee(s), if known, in accordance with rule 876—4.13(86).

ITEM 34. Adopt the following new rule 876—4.51(86):

876—4.51(86) Agency notice of judicial review matters. A party who petitions for judicial review is responsible for filing with the division of workers’ compensation’s WCES a copy of the petition for judicial review within ten days of filing the petition with a district court. A party shall also file a copy of each appellate court decision within ten days of the date the appellate court decision was issued and filed. Within 45 days of the filing of the final appellate court decision, the same party shall notify the division of workers’ compensation of the result of the appellant process.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 35. Adopt the following new rule 876—4.52(86):

876—4.52(86) Rules of electronic procedure. Chapter 16 of the Iowa Court Rules of Electronic Procedure shall govern the use and filings in WCES for contested case proceedings before the workers’ compensation commissioner unless the provisions are in conflict with these rules and Iowa Code chapters 85, 85A, 85B, 86, 87 and 17A or obviously inapplicable to the workers’ compensation commissioner. In those circumstances, these rules or the appropriate Iowa Code section shall govern. Where appropriate, reference to the word “court” shall be deemed reference to the “workers’ compensation commissioner or deputy workers’ compensation commissioner,” reference to the word “trial” shall be deemed reference to “contested case hearing,” and reference to “clerk of court” shall refer to staff at the division of workers’ compensation.

This rule is intended to implement Iowa Code chapters 17A, 85, 85A, 85B and 86.

ITEM 36. Amend rule 876—5.1(17A), introductory paragraph, as follows:

876—5.1(17A) Petition for declaratory order. Any person may file a petition with the workers’ compensation commissioner for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the workers’ compensation commissioner, at the office of the workers’ compensation commissioner. Parties shall not use WCES for declaratory order proceedings. A petition is deemed filed when it is received by that office. The workers’ compensation commissioner shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 37. Adopt the following new subrule 10.3(5):

10.3(5) WCES shall not be used for health service dispute matters.

ITEM 38. Amend rule 876—11.2(85,86) as follows:

876—11.2(85,86) Definitions. The following definitions apply to 876—Chapter 3 and this chapter.

“EDI” or “electronic data interchange” means electronic transmission or reception, or both, of data through a telecommunications process utilizing a value-added network or the Internet as set forth in the EDI partnering agreement.

“EDI partnering agreement” means the written agreement between an entity and the division of workers’ compensation specifying the terms and manner of reporting by EDI.

“Filed” means receipt and acceptance of a report by the division of workers’ compensation. A report is considered to be “filed” on the date it is accepted (TA) by the division of workers’ compensation. A report that is submitted but rejected (TR) is not considered “filed.” A report that is accepted with errors (TE) must be corrected within five days after the acknowledgement is sent.

“Implementation plan” means the written document prepared by a reporter specifying a timetable for reporting by EDI.

“Report” means a first report of injury (FROI) or a subsequent report of injury (SROI), or both.
“Reporter” means the person who is responsible for reporting to the division of workers’ compensation pursuant to the Iowa workers’ compensation laws and includes an employer, an employer who has been relieved from insurance pursuant to Iowa Code section 87.11, and an insurance carrier which provides an employer workers’ compensation insurance.

“Reporting” means submission of claims data and data fields of information of a report.

ITEM 39. Amend rule 876—11.3(85,86) as follows:

876—11.3(85,86) Form of reporting. The format of EDI reporting must be the current version of the International Association of Industrial Accident Boards and Commissions (IAIABC) Release 2 3.1 FROI/SROI.

ITEM 40. Recind and reserve rule 876—11.5(85,86).

ITEM 41. Amend rule 876—11.6(85,86) as follows:

876—11.6(85,86) Mandatory reporting deadline. All reporters must sign a partnering agreement and begin reporting by EDI Release 3.1 no later than July 1, 2004 July 16, 2019, or when WCES is available to the public, whichever is later. Reporting by any means other than EDI Release 3.1 after July 1, 2004 July 16, 2019, will not be acceptable, unless WCES is not available to the public. Reporters are responsible for reporting by EDI. A reporter may contract with another entity for reporting, but the reporter is ultimately responsible for reporting. Any entity reporting on behalf of a reporter must also sign an EDI partnering agreement.

ITEM 42. Amend rule 876—11.7(85,86) as follows:

876—11.7(85,86) Required reports.

11.7(1) A reporter shall file reports as required by Iowa Code sections 86.11, 86.12, and 86.13, 876—subrules 3.1(1) and 3.1(2), this chapter and the partnering agreement. Reports required to be filed include, but are not limited to, the following:

a. First report of injury (FROI). See 876—subrule 3.1(1);
b. Subsequent report of injury (SROI). See 876—subrule 3.1(2);
c. Annual report on every claim that is open on June 30 each year. The annual report shall show all benefits paid since the claim was initiated through June 30 of the current year. A final report shall be filed in lieu of the annual report if the claim is closed and the final report is filed before the date when the annual report is scheduled to be filed; and
d. Final report filed at the time the claim is closed. The final report indicates that no further benefit payments are contemplated.

11.7(2) A reporter shall file a change to FROI and SROI reports whenever a reporter is made aware that information previously submitted is incorrect. The reporter shall file a change within 45 days after being made aware that previously submitted information is incorrect. This information includes, but is not limited to, the injured employee’s social security number, date of injury, employer’s name, and injured employee’s name. A reporter shall also correct information used in calculation of the compensation rate including, but not limited to, marital status and number of exemptions, average weekly wage, and compensation rate at the time of the employee’s injury. If a final decision by the division of workers’ compensation or a court of law changes any of the previously submitted information, the attorney for the employer and insurance carrier shall notify the reporter. The reporter shall file a change within 45 days of the final decision.
The Human Services Department hereby amends Chapter 170, “Child Care Services,” Iowa Administrative Code.

Legal Authority for Rule Making
This rule making is adopted under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented
This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary
These amendments revise the Child Care Assistance (CCA) fees, which are based on federal poverty levels (FPL), household size, and family gross monthly income. These amendments update the fee chart. Finally, these amendments provide clarification regarding change reporting requirements.

Public Comment and Changes to Rule Making
Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as ARC 4367C. The Department received no comments during the public comment period.

The Department was advised that the fee schedule chart that was proposed for removal in the Notice of Intended Action (IAB 3/27/19, ARC 4367C) is required to be published in administrative rule. Therefore, Item 2 of these amendments has been revised to reintroduce and update the fee schedule table to reflect changes that resulted from changes to federal poverty level.

Reason for Waiver of Normal Effective Date
Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 1, 2019, because these amendments confer a benefit on the public. The annual poverty level increase will allow families that have received increased income to maintain eligibility for child care assistance without paying increased fees.

Adoption of Rule Making
This rule making was adopted by the Council on Human Services on May 13, 2019.

Fiscal Impact
Copay chart changes: There is no fiscal impact to the state. The rule making simply allows families that have received a cost-of-living pay increase to remain at their current fee level. Reporting requirements: The clarification on reporting requirements has no fiscal impact.

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

This amendment does not provide a specific waiver authority because families may request a waiver of these provisions in a specified situation under the Department’s general rule on exceptions at 441—1.8(17A,217).

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 1, 2019.

The following rule-making actions are adopted:

ITEM 1. Rescind subrule 170.2(4) and adopt the following new subrule in lieu thereof:

170.2(4) Reporting changes. The parent may report any changes in circumstances affecting these eligibility requirements and changes in the choice of provider to the department worker or the PROMISE JOBS worker within ten calendar days of the change.

a. If the change is timely reported within ten calendar days, the effective date of the change shall be the date when the change occurred.

b. If the change is not timely reported within ten calendar days, the effective date of the change shall be the date when the change is reported to the department office or the PROMISE JOBS office.

c. Exceptions. The following changes must be reported:

(1) Changes in income when the family’s gross monthly income exceeds 85 percent of Iowa’s median family income.

(2) A lapse in a parent’s need for service found in paragraph 170.2(2) “b” that is not temporary.

(3) A change in residency outside of the state of Iowa.

(4) No eligible child remains in the home.

d. The department worker shall disregard any reported changes that are not required to be reported unless the change would cause the authorized units to be increased or the family copay amount to be decreased.

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

a. Sliding fee schedule.

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, 2018 2019:
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**Monthly Income According to Family Size**

**Unit Fee Based on Number of Children in Care**

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Monthly Income According to Family Size

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HUMAN SERVICES DEPARTMENT[441](cont’d)

(2) No change.

ITEM 3. Amend paragraph 170.4(3)“i” as follows:

i. Transgressions. If any person subject to the record checks in paragraph 170.4(3)“g” or 170.4(3)“h” has a record of founded child abuse, dependent adult abuse, a criminal conviction, or placement on the sex offender registry, the department shall follow the process for prohibition or evaluation defined at 441—subrule 110.7(3) 120.11(3).

(1) and (2) No change.

[Filed Emergency After Notice 5/13/19, effective 7/1/19]
[Published 6/5/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/5/19.

ARC 4468C

MEDICINE BOARD[653]

Adopted and Filed Emergency

Rule making related to licensure of genetic counselors

The Board of Medicine hereby amends Chapter 20, “Licensure of Genetic Counselors,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

Chapter 20 establishes the requirements for licensure of genetic counselors. This rule making defines the types of informal and nonpublic actions an applicant must report to the Board as part of the license application process. This rule making indicates that the Board will accept a letter sent directly from the American Board of Genetic Counseling (ABGC) or the American Board of Medical Genetics and Genomics (ABMGG) to the Board as proof that an applicant has been granted active candidate status for provisional licensure. This rule making indicates that the licensure committee shall consult with an Iowa-licensed genetic counselor if the committee is unable to eliminate questions or concerns about an applicant. This rule making defines the practice of genetic counseling to include precision medicine and indicates that if an applicant has not engaged in active practice in the last three years in the United States, the Board shall consult with an Iowa-licensed genetic counselor to determine whether there is another option to demonstrate the applicant’s current clinical competency. This rule making creates an option for an employer-based pathway for an applicant to demonstrate current clinical competency if the applicant has not engaged in active practice in the past three years in the United States. This rule making indicates that the Board shall consult with an Iowa-licensed genetic counselor prior to denying a license.

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

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation are unnecessary or impractical because the emergency adoption was approved by the Administrative Rules Review Committee. The Board recently adopted ARC 4339C (IAB 3/13/19) regarding the licensure of genetic counselors. After the Board adopted the rules, a representative for genetic counselors requested
several minor amendments. At the April 5, 2019, meeting of the Administrative Rules Review Committee, the Board requested and was granted a 70-day delay of the effective date of the rules. The rules are necessary to implement Iowa Code chapter 148H, which became effective on January 1, 2019, and are necessary for the Board to begin licensing genetic counselors. The rules are administrative in nature and have not been controversial.

In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its May 14, 2019, meeting reviewed the Board’s determination and this rule making and approved the emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Board also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on May 15, 2019, because the Board recently adopted ARC 4339C regarding the licensure of genetic counselors. After the Board adopted the rules, a representative for genetic counselors requested several minor amendments. At the April 5, 2019, meeting of the Administrative Rules Review Committee, the Board requested and was granted a 70-day delay of the effective date of the rules. The Committee lifted the delay at its May 14, 2019, meeting. Waiving the normal effective date of this rule making and making the rules effective on May 15, 2019, confers a benefit on the public because the rules are necessary to implement Iowa Code chapter 148H, which became effective on January 1, 2019, and having the rules in effect allows the Board to begin licensing genetic counselors.

Adoption of Rule Making

This rule making was adopted by the Board on April 12, 2019.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as ARC 4477C to allow for public comment.

Fiscal Impact

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

Jobs Impact

This rule making will likely increase the pool of genetic counselors and increase access to genetic counseling services in Iowa. It will likely have a positive jobs impact, which is difficult to measure at this time.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 653—Chapter 3.

Review by Administrative Rules Review Committee

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

This rule making became effective on May 15, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraphs 20.8(2)“f” and “h” as follows:
   f. A statement disclosing and explaining any informal or nonpublic actions, such as letters of
      warning, letters of education, any confidential retraining, or any kind of confidential action taken toward a
      genetic counselor’s certification or license which is not public discipline; warnings issued, investigations
      conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical,
      genetic counseling or professional regulatory authority, an educational institution, a training or research
      program, or a health facility in any jurisdiction;
   h. A letter sent directly from the ABGC or ABMGG to the board verifying the applicant holds
      active certification in genetic counseling by the ABGC or ABMGG or proof of active candidate status for provisional licensure; a letter sent directly from ABGC or ABMGG to the board verifying the applicant has been granted active candidate status for provisional licensure;

ITEM 2. Amend paragraphs 20.8(4)“a” and “b” as follows:
   a. Paying all fees charged by regulatory authorities, national testing or credentialing certifying
      organizations, health facilities, and educational institutions providing the information specified in subrule
      20.8(2);
   b. Providing accurate, up-to-date, and truthful information on the application form including, but
      not limited to, that specified under subrule 20.8(2) related to prior professional experience, education,
      training, active certification, licensure or registration, and disciplinary history.

ITEM 3. Amend paragraph 20.8(5)“g” as follows:
   g. If the committee is not able to eliminate questions or concerns without dissension from staff
      or a committee member, and after consultation with an Iowa-licensed genetic counselor, the committee
      shall recommend that the board:
      (1) and (2) No change.
      (3) If an applicant has not engaged in the field of genetic counseling or precision medicine in
      the past three years in any jurisdiction of the United States, the board may, after consultation with an
      Iowa-licensed genetic counselor, require an applicant to:
      1. and 2. No change.
      3. Successfully If the genetic counselor is employed or has an offer of employment, successfully
      complete any other pathway as agreed upon by the board and the genetic counselor’s employer;
      (4) to (7) No change.

ITEM 4. Amend subparagraph 20.8(5)“h”(3) as follows:
   (3) If an applicant has not engaged in the field of genetic counseling or precision medicine in
   the past three years in any jurisdiction of the United States, the board may, after consultation with an
   Iowa-licensed genetic counselor, require an applicant to:
   1. and 2. No change.
   3. Successfully If the genetic counselor is employed or has an offer of employment, successfully
   complete any other pathway as agreed upon by the board and the genetic counselor’s employer;

ITEM 5. Amend subrule 20.8(6), introductory paragraph, as follows:
   20.8(6) Grounds for denial of licensure. The board, on the recommendation of the committee, and
   after consultation with an Iowa-licensed genetic counselor, may deny an application for licensure for any
   of the following reasons:

ITEM 6. Amend 20.10(1)“b” as follows:
   b. A letter sent directly from the ABGC or ABMGG to the board verifying that the applicant holds
      active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or
Item 7. Rescind paragraph 20.11(1)“d” and adopt the following new paragraph in lieu thereof:

d. A letter sent directly from the ABGC or ABMGG to the board verifying the applicant holds active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or a letter sent directly from the ABGC or ABMGG to the board verifying the applicant has been granted active candidate status for provisional licensure.

Item 8. Amend subrule 20.11(2), introductory paragraph, as follows:

20.11(2) Reinstatement for an applicant who has been out of practice for three years. If an applicant for reinstatement has not engaged in the field of genetic counseling or precision medicine in the past three years in any jurisdiction of the United States, the board may, after consultation with an Iowa-licensed genetic counselor, require an applicant to:

[Filed Emergency 5/14/19, effective 5/15/19]
[Published 6/5/19]

Editor’s Note: For replacement pages for IAC, see IAC Supplement 6/5/19.
ARC 4485C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to aftercare services program

The Human Services Department hereby rescinds Chapter 187, “Aftercare Services Program,” Iowa Administrative Code, and adopts a new Chapter 187 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

The Iowa Aftercare Services Program (Aftercare) is a service contracted by the Human Services Department, delivered by a network of child-serving agencies, that has been effectively transitioning youth to adulthood since 2004. The basic case management program was considerably improved with the passing of the Preparations for Adult Living (PAL) Program component (Iowa Code section 234.46) in 2006. Aftercare staff and youth have advocated for certain changes to align programming with youth development science (services extended up to the age of 23) and the Family First Act of 2018 (efforts to equalize preserves of children who are out of relative care with those of paid foster care leavers) and to ensure the safety of all involved (clearly defined termination and reentry guidelines). The Department and the Aftercare contractors believe these adopted rules will improve services and outcomes for youth transitioning from foster care or juvenile justice to adulthood, without creating additional cost to the state.

Following is a list of key changes included in new Chapter 187:

- Aftercare rules and PAL rules are merged into one division for clarity.
- The aftercare program goal is revised to a “path to” self-sufficiency.
- The maximum participant age for aftercare program eligibility is extended up to the age of 23.
- The maximum PAL stipend may change based on the age of the participant.
- Youth are required to meet “regularly” with the self-sufficiency advocate, and the specific frequency must be stated in the youth’s plan.
- Case management services shall be provided in a “safe” and “convenient” location.
- Youth are expected to contribute to vendor purchases if financially able.
- Reasons for termination are revised and include a focus on personal accountability and safety.
- Youth discharged, especially due to violence, may not immediately return to the program.
- Standards for proof of purchase are increased.
- The start-up funds to aftercare participants are expanded.
- A nonapproved living arrangement is removed as a condition for termination of the PAL stipend.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as ARC 4369C. The Department received comments from one respondent during the public comment period. The respondent’s comments and the Department’s responses regarding this rule making have been consolidated and are as follows:

Comment 1: The respondent expressed support for the proposed revision to the administrative rules for Iowa’s Aftercare Services Program and specifically stated that the chapter:

- Streamlines the organization of the rules.
Addresses implementation issues that have emerged in recent years.

The respondent stated that minor rewording of a few specific sections was offered primarily for clarification and in no way reflects any disagreement with the general intent and direction of the changes.

**Department response 1:** The revisions reflected in new Chapter 187 were made in partnership with direct service providers and served youth. The Department is optimistic that it will see positive results. The Department did not change the rules based on this comment from the respondent.

**Comment 2:** The respondent asked that the rule describing the purpose of the program be reworded to reflect that the primary goal of the program is for youth to “move toward” self-sufficiency, rather than “achieve” self-sufficiency.

**Department response 2:** The Department agrees with the comment. Rule 441—187.1(234) has been revised in accordance with the change proposed by the respondent. Specifically, the words “move toward” have been substituted for the word “achieve.”

**Comment 3:** The respondent supported expanding eligibility for Aftercare services to youth up to the age of 23. The respondent noted that the change aligns the Iowa program with recent changes to the federal Chafee Act, reflects what is known about brain development into a person’s twenties, and creates the opportunity for young people who may need additional time to be firmly on a path to economic stability and successful adulthood to receive support.

**Department response 3:** These rules are a response to young adults’ need for additional time and support as they transition to adulthood. The Department did not change the rules based on this comment from the respondent.

**Comment 4:** The respondent stated that the best design for services needed by young adults at the ages of 21 and 22 has yet to be fully determined and that the proposed rule requiring youth to complete a full self-sufficiency plan and budget may be overly prescriptive. The respondent suggested that the rule be modified slightly to allow greater flexibility in the design of these services, while still holding the program and participants accountable for working toward self-sufficiency.

**Department response 4:** The Department agrees with the comment and has revised subrule 187.3(3) so that it now reads as follows:

“187.3(3) Postservices. Posttransition service may be provided to youth, as described in paragraphs 187.2(3) “c,” and may include, but is not limited to, life skills training, periodic check-in, referrals to needed services, and limited payments to youth. Funds, limited to an annual per-participant amount identified in the contract, may be provided to a former aftercare services participant. Prior to receiving available funds, the youth is required to meet with the advocate and discuss the reason the youth is accessing funds and prior efforts to meet the need. The youth may also be asked to provide documentation of income.”

Paragraph 187.3(7)“b” was also revised to add the word “discussion” after “budget.”

**Comment 5:** The respondent suggested that consistent with the intent of the program, the rules include an expectation that to receive a vendor payment a youth “contribute toward the cost of meeting the identified need to the extent the youth is able.”

**Department response 5:** The Department agrees with the comment and has revised paragraph 187.3(5)“a” to read as follows:

“a. To receive a vendor payment, the youth must demonstrate that there are no other means to meet the needs that would be covered by the vendor payment. The youth shall contribute toward the cost of meeting the identified need, to the extent the youth is able. A youth receiving a preparation for adult living (PAL) stipend, preservices or postservices is not eligible for a vendor payment.”

**Comment 6:** Noting that the eligibility for the PAL Program is established in Iowa Code section 234.46, the respondent encouraged the Legislature and the Department to consider removing the PAL eligibility requirement that a youth be in “paid foster care” when the youth exits the foster care system. The respondent stated that this change would align with efforts to equalize supports for youth who age out of relative caregiver placements with paid “stranger” placements, as is consistent with new federal policy, the Family First Act.
**Department response 6:** The Department does not have the authority to make this change. An extension of PAL support to children aging out of relative placements would require additional federal or state funds and legislative changes to Iowa Code section 234.46, which describes eligibility for the program. The Department did not change the rules based on this comment from the respondent.

**Comment 7:** The respondent strongly supported allowing the program to set the maximum PAL stipend based on age, which, according to the respondent, will allow the program to gradually reduce the stipend for youth as they approach the age of 21, thus encouraging employment and lessening the cliff effect when a participating youth reaches 21 years of age. The respondent stated further that a gradual reduction in stipends for youth aged 18 to 21 should allow for expansion of services to older youth.

**Department response 7:** The Department agrees with the comment, which validates the Department’s belief that a gradual reduction in stipend will result in less of a “cliff” and ultimately in better outcomes. The Department did not change the rules based on this comment from the respondent.

**Comment 8:** The respondent agreed with setting a cap on the funds available to youth receiving postservices, but thought that the wording of the rule was problematic. The respondent stated that under the rules as written, a participant who received $600 while aged 20 would have to wait a full 12 months from last receiving funds before being eligible for any additional financial support and that this would be challenging to track administratively, would be a disincentive to continue to receive services, and would reduce the flexibility of the program to help meet short-term needs of youth accessing postservices.

**Department response 8:** The Department disagrees that a participant aged 20 would have to wait 12 months before receiving postservices funds. Receiving other funds (preservices or vendor payments) at the age of 20 will not limit postservices funds. The Department did not change the rules based on this comment from the respondent.

Except for the changes described above, no other changes from the Notice have been made.

### Adoption of Rule Making

This rule making was adopted by the Council on Human Services on May 13, 2019.

### Fiscal Impact

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

### Jobs Impact

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

### Waivers

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

### 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 10, 2019.

The following rule-making action is adopted:
Rescind 441—Chapter 187 and adopt the following new chapter in lieu thereof:

CHAPTER 187
AFTERCARE SERVICES PROGRAM

PREAMBLE
These rules define and structure the aftercare services program, which assists youth leaving foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center in their successful transition to adulthood. The aftercare services program, including the preparation for adult living (PAL) program component, helps youth formerly in foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center to continue preparing for the challenges and opportunities presented by adulthood while receiving services and supports. The program offers services and financial benefits to eligible youth up to the age of 23. All services and supports are voluntary.

441—187.1(234) Purpose. The purpose of the aftercare services program is to provide services and supports to youth who are transitioning from foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center to adulthood. The primary goal of the program is for youth to move toward self-sufficiency and to recognize and accept their personal responsibility for the transition from adolescence to adulthood.

441—187.2(234) Aftercare services program eligibility requirements. To be eligible for aftercare services, a youth must meet the following requirements:

187.2(1) Residence. The youth must be a resident of Iowa.

187.2(2) Age. The youth must be at least 17 years of age but less than 23 years of age. Program supports and services vary by age.

187.2(3) Out-of-home placement experience.
   a. Preservices. The youth must meet eligibility requirements for preservices as described below:
      (1) The youth is at least 17 years of age; and
      (2) The youth was placed in foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center; was adopted after reaching 16 years of age; or entered a subsidized guardianship arrangement after reaching 16 years of age; and
      (3) The youth has access to funding for preservices provided in contract that has not been fully expended for the contract year.

   b. Core services. The youth must meet eligibility requirements for core services as described below:
      (1) The youth is 18, 19, or 20 years of age; and
      (2) The youth exited foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center:
         1. On or after the youth’s eighteenth birthday; or
         2. Between the ages of 17½ and 18 after having been in any combination of foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center for at least one day in at least 6 of the 12 calendar months prior to the youth leaving placement; or
         (3) The youth was adopted from foster care on or after the youth’s sixteenth birthday; or
         (4) The youth entered a subsidized guardianship arrangement from foster care on or after the youth’s sixteenth birthday.

   c. Postservices. The youth must meet eligibility requirements for postservices as described below:
      (1) The youth is 21 or 22 years of age; and
      (2) The youth was served by the aftercare services program prior to the age of 21; and
      (3) The youth has access to funding for postservices provided in contract that has not been fully expended for the contract year.

   d. Definition of foster care. For purposes of this chapter, “foster care” is defined as 24-hour substitute care for a child who is placed away from the child’s parents or guardians and for whom the
department or juvenile court services has placement and care responsibility through either a court order or voluntary agreement.

(1) A placement may meet the definition of foster care regardless of whether:
   1. The placement is licensed and the state or a local agency makes payments for the child’s care;
   2. Adoption subsidy payments are being made before the finalization of adoption; or
   3. There is federal matching of any payments made.

(2) Foster care may include, but is not limited to, placement in:
   1. A foster family home; or
   2. A foster care group home; or
   3. An emergency shelter; or
   4. A preadoptive home; or
   5. The home of a relative or suitable person; or
   6. A psychiatric medical institution for children (PMIC).

187.2(4) Responsibility. The youth must:
   a. Actively take part in developing and participating in an individual self-sufficiency plan; and
   b. Indicate recognition and acceptance of personal responsibility in the transition toward self-sufficiency, which includes, but is not limited to, meeting with the self-sufficiency advocate regularly and as described in the youth’s individual self-sufficiency plan, as described in subrule 187.3(2).

441—187.3(234) Services and supports provided. The aftercare services program shall provide the following services and supports to eligible youth:

187.3(1) Preservices. Planning, coordination of services, and trust-building activities may be provided to a youth placed out of home, as described in paragraph 187.2(3)“a,” who is expected to participate in aftercare services at 18 years of age or older. The administrator may provide funds as described in paragraph 187.3.4(4)“a.” However, funds provided to the youth in preservices will be deducted from available funds in the youth’s first year of participation in core services.

187.3(2) Core services. Case management services shall be offered to youth, as described in paragraph 187.2(3)“b,” at a safe and convenient location. Activities shall include, but not be limited to, all of the following:
   a. Development of an individual self-sufficiency plan, based on an assessment of the youth’s strengths and needs. Each core services participant shall have a plan to identify:
      (1) The youth’s goals for achieving self-sufficiency;
      (2) The target date for reaching the goals; and
      (3) The tasks, responsible parties, time frames, and desired outcomes needed to reach the goals.
   b. Services to develop a budget and money management skills training.
   c. Services to assist the youth in establishing or reestablishing relationships with significant adults.
   d. Services to facilitate the youth’s access to community resources.
   e. Life skills training, as identified in the youth’s individual self-sufficiency plan. Life skills training shall include, but not be limited to, skills to help the youth in establishing and maintaining safe and stable housing; education goals; employment goals; health and health care coverage; and healthy relationships.
   f. Additional case management activities necessary for youth to successfully transition to adulthood and as described in the individual self-sufficiency plan.
   g. Individual face-to-face contact with the youth at the frequency defined in the youth’s individual self-sufficiency plan and according to the youth’s changing needs. If a youth is a resident of Iowa but is attending a postsecondary education program in another state, the program administrator or designee shall approve an alternative method for maintaining contact with the youth if and when it is a hardship for the youth to physically be in Iowa.
   h. Ongoing assessment, including evaluation and coordination of the services, supports, and life skills training being provided to assist the youth in reaching self-sufficiency goals and to determine if and what progress is being made. The case manager shall amend any goals, outcomes, tasks, responsible
HUMAN SERVICES DEPARTMENT[441](cont’d)

parties, and time frames in the plan along with services, supports, and life skills training provided as necessary to assist the youth in achieving self-sufficiency.

187.3(3) Postservices. Posttransition service may be provided to youth, as described in paragraph 187.2(3) “c,” and may include, but is not limited to, life skills training, periodic check-in, referrals to needed services, and limited payments to youth. Funds, limited to an annual per-participant amount identified in the contract, may be provided to a former aftercare services participant. Prior to receiving available funds, the youth is required to meet with the advocate and discuss the reason the youth is accessing funds and prior efforts to meet the need. The youth may also be asked to provide documentation of income.

187.3(4) Start-up allowance. When a youth between the ages of 17 and 21 is receiving or is expected to receive core services in accordance with subrule 187.3(2), and is actively participating in the program, the program administrator or designee may authorize and provide payment to a youth as described below:

a. The start-up allowance is intended to assist in covering the initial costs of establishing the youth’s living arrangement, such as by paying rental or utility deposits, purchasing food, or purchasing necessary household items.

b. The start-up allowance is limited to $600 per youth.

187.3(5) Vendor payments. When a youth qualifies for core services in accordance with subrule 187.3(2), and is actively participating in the program, the program administrator or designee may authorize and provide payment to a youth as described below:

a. To receive a vendor payment, the youth must demonstrate that there are no other means to meet the needs that would be covered by the vendor payment. The youth shall contribute toward the cost of meeting the identified need, to the extent the youth is able. A youth receiving a preparation for adult living (PAL) stipend, preservices or postservices is not eligible for a vendor payment.

b. Vendor payments may include, but are not limited to:

(1) Health care-related expenses;
(2) Transportation assistance;
(3) Costs related to employment and education;
(4) Clothing; and
(5) Room and board.

c. The amount available for a 12-month period of service shall not exceed $1,200 per youth.

187.3(6) Preparation for adult living (PAL) stipend. When an eligible youth is actively participating in the program, the administrator or designee shall deliver the preparation for adult living program as described in Iowa Code section 234.46 and as follows:

a. To be eligible for the PAL stipend, the youth must:

(1) Meet eligibility requirements in Iowa Code section 234.46 and rule 441—187.2(234); and
(2) Have been placed out of home in paid foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center as identified by Iowa Code chapter 232 on the youth’s eighteenth birthday and have exited after having been in any combination of the same services in at least 6 of the 12 months before leaving placement; and

(3) Be ineligible for voluntary foster care placement, due to one of the following:

1. The youth has a high school diploma or equivalent, or
2. The youth has reached 20 years of age, or
3. The youth became eligible for aftercare services due to exiting the Iowa state training school or an Iowa detention center.

b. To be eligible for the PAL stipend, the youth must meet one or more of the following criteria:

(1) Be enrolled in or actively pursuing enrollment in postsecondary education, a training program or work training; or
(2) Be employed for 80 hours per month or be actively seeking that level of employment; or
(3) Be attending an accredited school full-time pursuing a course of study leading to a high school diploma; or
(4) Be attending an instructional program leading to a high school equivalency diploma.
c. The maximum monthly stipend shall be provided after completion of the youth’s budget. The maximum amounts provided to a youth shall be stated in the contract and shall be based on program eligibility and guidelines, as follows:

(1) The monthly stipend shall be prorated based on the number of days of youth participation, for those entering and exiting the program during the month.

(2) When the monthly unearned income of the youth exceeds the overall maximum monthly stipend offered in the preparation for adult living program, the youth is not eligible for payments under subrule 187.3(4) unless unused startup funds remain.

(3) When the net earnings of the youth exceed the overall maximum monthly stipend offered in the preparation for adult living program, the monthly stipend shall be reduced by 50 cents for every dollar earned by the youth over the overall monthly maximum stipend.

(4) All earned and unearned income received by the youth during the 30 days before the determination shall be used to project future income. If the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

(5) Nonrecurring lump-sum payments are excluded as income. Nonrecurring lump-sum payments include, but are not limited to, one-time payments received for such things as income tax refunds, rebates, credits, refunds of security deposits on rental property or utilities, and retroactive payments for past months’ benefits such as social security, unemployment insurance, or public assistance.

(6) The youth shall timely report the beginning and ending of earned and unearned income. A report shall be considered timely when made within ten days from the receipt of income or the date income ended.

(7) When the youth timely reports a change in income, the youth’s prospective eligibility and stipend amount for the following month shall be determined based on the change.

(8) Recoupment shall be made for any overpayment due to failure to timely report a change in income or for benefits paid during an administrative appeal if the department’s action is ultimately upheld. Recoupment may be made through a reasonable reduction of any future stipends.

(9) Recoupment shall not be made when a youth timely reports a change in income and the change is timely acted upon, but the timely notice policy in rule 441—7.7(17A) requires that the action be delayed until the second calendar month following the month of change.

(10) The stipend may be paid to the youth, the foster family, or another payee other than a department employee. The payee shall be agreed upon by the parties involved and specified in the individual self-sufficiency plan, described in subrule 187.3(2).

(11) The maximum stipend may be based on the age of the youth.

187.3(7) Postservices allowance. Youth 21 or 22 years of age who previously received aftercare services may receive postservices funds if they meet all of the following criteria:

a. The youth is participating in postservices as described in subrule 187.3(3).

b. A budget discussion has been completed timely by the youth with a self-sufficiency advocate.

c. The need has been identified in the individual self-sufficiency plan.

d. The postservices funds approved for the youth have not exceeded $600 for the previous 12-month period.

441—187.4(234) Termination of aftercare services.

187.4(1) A youth may be discharged from the aftercare services program for any of the following reasons:

a. The youth fails to follow individual self-sufficiency plan components and expectations as determined by the program administrator or designee.

b. The youth fails to meet regularly with the self-sufficiency advocate without good cause as determined by the program administrator or designee.

c. The youth voluntarily withdraws from the program.

d. The youth is no longer a resident of Iowa.

e. The youth reaches 23 years of age.
187.4(2) Aftercare services and supports may be terminated for up to six months as determined by the program administrator or designee when a youth intentionally physically threatens or injures program staff or an employee of an aftercare provider agency.

187.4(3) The PAL stipend may be terminated if the youth fails to meet work or education eligibility requirements for 30 consecutive days without good cause as determined by the program administrator or designee.

187.4(4) The PAL stipend may be terminated if the youth fails to maintain satisfactory progress as defined by the education or training program in which the youth is enrolled. A youth who is not making satisfactory progress may stay in the PAL program component of the aftercare services program by choosing the work option specified in subparagraph 187.3(6)“b”(2). A PAL stipend or allowance shall not be reinstated for at least 30 days if the stipend was terminated for the reason described in this subrule.

187.4(5) The youth intentionally misrepresents income or expenditures or spends funds in a manner inconsistent with their intended purpose. The program administrator may request receipts or acceptable evidence that funds went to the intended purpose.

187.4(6) There are insufficient funds.

187.4(7) Unless otherwise stated, a youth whose aftercare service is terminated in accordance with this rule may return to the program after the passing of at least 30 days. However, if the youth has received three or more notices of termination within a 12-month period, the youth may not return until at least three months have passed from the date of the third notification.

441—187.5(234) Waiting list. The program administrator or designee shall create a waiting list when all funds for the aftercare services program are committed for the fiscal year. Names shall be entered on the waiting list on a first-come, first-served basis once the youth is determined eligible. Due to funding, it may be necessary to create more than one waiting list.

441—187.6(234) Administration. The department may contract with another state agency or a private organization to perform the administrative and case management functions necessary to administer the aftercare services program. Agencies and organizations providing services or supports shall meet the standards in rules 441—108.2(238) through 441—108.6(238).

These rules are intended to implement Iowa Code section 234.46 and Public Law 106-169, the Foster Care Independence Act of 1999.

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[Published 6/5/19]
EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/5/19.

ARC 4486C

PAROLE BOARD[205]

Adopted and Filed

Rule making related to automatic revocation of parole

The Board of Parole hereby amends Chapter 11, “Parole Revocation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 906.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 908.10 and 908.10A.
PAROLE BOARD[205](cont’d)

Purpose and Summary

This amendment conforms rule 205—11.12(908) with recently amended Iowa Code sections 908.10 and 908.10A.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as ARC 4349C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on May 2, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 10, 2019.

The following rule-making action is adopted:

Amend rule 205—11.12(908), introductory paragraph, as follows:

205—11.12(908) Conviction of a felony or aggravated misdemeanor while on parole. When a parolee is convicted and sentenced to incarceration in Iowa for a felony or aggravated misdemeanor committed while on parole, or is convicted and sentenced to incarceration under the laws of in any other state of the United States or a foreign government or country for an offense committed while on parole and which if committed in Iowa would be a felony or aggravated misdemeanor, the parolee’s parole shall be deemed revoked as of the date of the commission of the offense.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/5/19.
ARC 4487C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to the WIC program


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 135.11 and 135.16A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 135.11 and 135.16A and 42 U.S.C. Section 1786.

Purpose and Summary

The State of Iowa WIC Program now has a Program Integrity Coordinator who monitors all aspects of WIC fraud within the Iowa WIC Program. Federal regulations require state WIC agencies to establish procedures designed to control participant violations and establish sanctions for participant violations. Federal regulations include specific requirements for mandatory participant disqualifications.

These amendments make updates to the rules about participant violations/sanctions to help ensure that violations/sanctions are handled in the most efficient manner. It was determined that it would be beneficial to make changes to how participant violations and sanctions are given. Instead of receiving points for violations, participants will be given a specific sanction depending on the violation. Violations and sanctions are now investigated and given by the Program Integrity Coordinator instead of handled by local WIC agencies. More information regarding restitution requirements is added to the rules. Updating the violation and sanction process for program participants is important to ensure efficient monitoring of any fraud or abuse that occurs within the program and to ensure program integrity. The vendor violation/sanction process is different than the participant violation/sanction process and works well, and there is not a need to change the vendor violation point structure at this time.

The amendments make a few changes regarding the WIC food package information. Iowa now approves WIC-eligible foods more frequently than every three years. These amendments reflect this change in practice. A few other updates are also made to the eligibility requirements for certain foods. Finally, new definitions for “conventional eggs,” “eggs,” and “specialty eggs” are added, and subrule 73.8(3) is amended to incorporate the language in Iowa Code section 135.16A that requires grocery vendors participating in the WIC Program to stock conventional eggs. These changes will help to ensure that participants have the best variety and availability of WIC-eligible foods possible.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as ARC 4361C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on May 8, 2019.

Fiscal Impact

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

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 10, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—73.2(135) as follows:


ITEM 2. Amend rule 641—73.3(135) as follows:

ITEM 3. Amend rule 641—73.4(135), definitions of “Nutrition education,” “Postpartum woman,” “Vendor overcharge,” “Vendor violation,” “WIC program,” and “WIC Vendor Instructions and Agreement Booklet,” as follows:

“Nutrition education” means an individual or group education session and the provision of information and educational materials designed to improve health status, achieve positive change in dietary and physical activity habits, and emphasize relationships between nutrition, physical activity, and health, all in keeping with the individual’s personal, cultural, and socioeconomic preferences of the individual.

“Postpartum woman” means a woman up to six months postpregnancy who is not breastfeeding after termination of pregnancy.

“Vendor overcharge” means intentionally charging the department more for authorized supplemental foods than is permitted under the WIC vendor agreement. It is not a vendor overcharge when a vendor submits a food instrument for redemption and the department makes a price adjustment to the food instrument.

“Vendor violation” means any intentional or unintentional action of a vendor’s current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the WIC vendor agreement or federal or state statutes, regulations, policies, or procedures governing the WIC program.


“WIC Vendor Instructions and Agreement Booklet” means the grocery vendor application, grocery vendor application guidance, special purpose vendor application, special purpose vendor application guidance, and vendor agreement WIC Vendor Agreement and Handbook.

ITEM 4. Adopt the following new definitions of “Conventional eggs,” “Dual participation,” “Eggs,” “Exempt infant formula,” “Participant violation,” “Proxy,” “Specialty eggs,” “WIC-eligible nutritionals,” and “WIC vendor agreement” in rule 641—73.4(135):

“Conventional eggs” means eggs other than specialty eggs.

“Dual participation” means simultaneous participation in the WIC program in one or more than one WIC clinic, or participation in the WIC program and in the commodity supplemental food program (CSFP) during the same period of time.

“Eggs” means shell eggs that are graded as “AA,” “A,” or “B” pursuant to 7 CFR Part 56, Subpart A, and that are sold at retail in commercial markets.

“Exempt infant formula” means an infant formula that meets the requirements for an exempt infant formula under Section 412(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a(h)) and the regulations at 21 CFR Parts 106 and 107.

“Participant violation” means any deliberate action of a participant, parent or caretaker of an infant or child participant, or proxy that violates federal or state statutes, regulations, policies, or procedures governing the WIC program. Participant violations include, but are not limited to, deliberately making false or misleading statements or deliberately misrepresenting, concealing, or withholding facts to obtain benefits; selling or offering to sell WIC benefits, including cash-value vouchers, food instruments, EBT cards, or supplemental foods in person, in print, or online: exchanging or attempting to exchange WIC benefits, including cash value vouchers, food instruments, EBT cards, or supplemental foods for cash, credit, services, nonfood items, or unauthorized food items, including supplemental foods in excess of those listed on the participant’s food instrument; threatening to harm or physically harming clinic, farmer, or vendor staff; and dual participation.

“Proxy” means any person designated by a woman participant, or by a parent or caretaker of an infant or child participant, to obtain and transact food instruments or cash-value vouchers or to obtain supplemental foods on behalf of a participant.

“Specialty eggs” means eggs produced by domesticated chickens, and sold at retail in commercial markets, if the chickens producing such eggs are advertised as being housed in any of the following environments:
1. Cage-free.
2. Free-range.
3. Enriched colony cage.

“WIC-eligible nutritionals” means certain enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition, when the use of conventional foods is precluded, restricted, or inadequate. Such WIC-eligible nutritionals must serve the purpose of a food, meal or diet (may be nutritionally complete or incomplete) and provide a source of calories and one or more nutrients; be designed for enteral digestion via an oral or tube feeding; and may not be a conventional food, drug, flavoring, or enzyme. WIC-eligible nutritionals include many, but not all, products that meet the definition of medical food in Section 5(b)(3) of the Orphan Drug Act (21 U.S.C. 360ee(b)(3)).

“WIC vendor agreement” means the WIC Vendor Agreement and Handbook.

ITEM 5. Amend subrule 73.5(1) as follows:

73.5(1) The competent professional authority (CPA) shall conduct either the diet history or the health history, part of the certification process or both histories, the nutrition interview and shall attest to the applicant’s eligibility for services after the certification process is completed.

ITEM 6. Amend subrule 73.6(3) as follows:

73.6(3) Time frame for services.

a. The date of initial visit shall be the day on which an applicant first requests services from a contract agency. A visit to another WIC program office to complete a common application form does not constitute an initial visit.

b. Pregnant women shall be certified for the duration of their pregnancy and for up to six weeks postpartum. Pregnant women precertified with referral data require a full certification within 30 days.

c. Priority II infants precertified with referral data require a full certification within 30 days of the infant’s birth.

ITEM 7. Amend paragraph 73.7(1)“b” as follows:

b. Claiming food instruments and benefits. Enrolled participants are required to appear in person to claim food instruments and benefits when they have appointments to certify or have face-to-face, scheduled nutrition education contacts. Missed attendance may entitle contract agencies to deny that month’s benefit. Enrolled participants who complete their nutrition education contacts via a state-approved Internet nutrition education platform are not required to appear in person to claim food instruments and benefits. A proxy may pick up food instruments as described in the Iowa WIC Policy and Procedure Manual.

ITEM 8. Amend paragraph 73.7(2)“b” as follows:

b. Mailing of WIC food instruments. Mailing of food instruments to participants is allowed only in specific situations as described in the Iowa WIC Policy and Procedure Manual. Any mailing of WIC food instruments on a clinicwide basis must have prior approval from the state.

ITEM 9. Amend paragraph 73.7(4)“a” as follows:

a. Grocery WIC vendor agreement. To qualify for a grocery WIC vendor agreement with the Iowa WIC program, a retail outlet shall meet all of the following criteria:

1. to (6) No change.

7. A vendor shall charge a price to WIC participants that is equal to or less than the price charged to all other customers. The prices charged to WIC participants for the average of all WIC items, as reported on the application, at the time of the on-site review, and throughout the agreement period, shall not exceed 105 percent of the average prices of all other WIC vendors in the same peer group. The vendor’s average price for any category of WIC items, as reported on the application, at the time of the on-site review, and throughout the agreement period, shall not exceed 115 percent of the average price charged for the same category by all other WIC vendors in the same peer group. Categories refer to the broad groupings of items rather than specific brands. For purposes of making the price comparisons, the average price for all other WIC vendors in the peer group shall be computed from the most recent Price
Assessment Reports on file from those vendors. If a vendor intends to comply with this provision by charging WIC participants a lower price than the price charged to other customers, the WIC price for each approved item must be identified on the package or shelf front.

(8) to (15) No change.

ITEM 10. Amend paragraph 73.7(4)“d” as follows:

d. Reauthorization. If ownership of an authorized vendor changes during the agreement period, the agreement becomes void. The new owner must file an application and be approved prior to accepting WIC food instruments. Vendor agreements are The WIC vendor agreement is valid only for the period of time specified, and a vendor may not continue accepting food instruments past the expiration date unless a new agreement is signed. When a currently authorized vendor makes application for a subsequent agreement, an agreement shall be signed only if the vendor has been assessed less than 60 violation points under paragraph 73.19(2)“b” during a contract period.

Vendors must complete a new application and sign a new WIC vendor agreement at least every three years to continue accepting WIC food instruments.

The department shall send the vendor written notice at least 30 days prior to the expiration of the agreement that it does not intend to offer the vendor a new agreement if the vendor has been assessed 60 or more violation points under paragraph 73.19(2)“b” during a contract period or if any of the following conditions are in effect:

(1) No change.
(2) Any of the selection criteria listed in 73.7(4)“a” and “b” above are no longer met.

Expiration of a WIC vendor agreement is not subject to appeal. A vendor who is not offered a new agreement by the department has the right to file a new application. If that application is denied, the vendor has the right to appeal.

ITEM 11. Amend paragraph 73.7(5)“a” as follows:

a. Routine or representative monitoring is used for vendors for which there is no record of violations or complaints or other indication of problems. It may include any or all of the following: use of a food instrument or observation of a participant, educational buys, review of inventory levels, review of vendor policies on return items, and review of employee training procedures. The results of the monitoring are reviewed with the owner or manager on duty, and a follow-up letter confirming the findings is sent from the department. Routine monitoring may be performed by the department or by contract agency staff under the direction of the department. Depending on the nature and severity of violations noted, the department may schedule additional visits, initiate a compliance investigation, or apply sanctions.

Educational buy monitoring is a specialized type of routine monitoring. Department or contract agency staff attempt to use a WIC food instrument to purchase unauthorized types or brands of foods to test the level of training of vendor employees. At the conclusion of the transaction, the results of the buy are discussed with the vendor owner or manager on duty. The transaction is then voided, and the merchandise returned to the shelves. After an educational buy is conducted, the purchased food may be donated. Educational buys are used on authorized vendors selected by the department. If unauthorized items are allowed to be purchased, the vendor shall agree to a corrective action training plan. A follow-up educational buy is scheduled within 30 to 90 days. A letter is sent from the department documenting the violation. By signing a WIC vendor agreement, a vendor gives consent for educational buys by the department or contract agency. Vendors are not notified in advance that an educational buy is scheduled. The protocol for educational buys, including procedures, appropriate items to purchase, and forms to be used, is specified in the Iowa WIC Policy and Procedure Manual.

ITEM 12. Amend subrule 73.8(3) as follows:

73.8(3) Criteria for approving products for inclusion in the WIC food package.

a. and b. No change.

c. Changes to the approved food list take effect on October 1 in years when new vendor contracts are signed. Inquiries from food companies about new and continuing products must be received prior to February 1 of the year vendor contracts expire to be guaranteed consideration can be submitted at any
time. Food items that are required to be listed by brand on the approved food list will be reviewed and approved on a quarterly basis. Food items that are not required to be listed by brand on the approved food list will be reviewed and approved as they are received. The state reserves the right to change the food list more frequently if necessary.

d. Cereals shall meet federal guidelines for content and shall also meet the following conditions:

(1) If a group of cereals from one manufacturer have similar names and package designs and some of the cereals do not qualify, the department reserves the right to not approve those types that would otherwise qualify, to reduce the potential for confusion by retail vendors and participants.

(2) The brand is carried by current Iowa WIC-approved vendors. Any private-label (store) brands that meet the selection criteria will also be considered.

e. Juices shall meet the federal guidelines for vitamin C content and all of the following conditions:

(1) Juices are 100 percent juice and contain no added sugar, sweeteners or artificial sweeteners.

(2) The brand is carried by current Iowa WIC-approved vendors. Any private-label (store) brands that meet the selection criteria will also be considered.

(3) The product form and marketing approach are consistent with the promotion of good nutrition and education.

(4) If a group of juices from one manufacturer have similar names and package designs and some of the juices do not qualify, the department reserves the right to not approve those types that would otherwise qualify, to reduce the potential for confusion by retail vendors and participants. Single-strength and concentrated varieties of juice with the same brand name will be evaluated separately.

(5) Frozen fruit juices must be single flavors.

f. The following conditions apply to dairy products:

(1) to (3) No change.

(4) Yogurt shall meet federal guidelines for content and shall also meet the following conditions:

1. The brand or any private-label (store) brand is carried by current Iowa WIC-approved vendors.

2. Nonfat, lowfat, and whole yogurts cannot contain artificial sweeteners. No frozen yogurt, yogurt tubes, or drinkable yogurts are allowed.

g. and h. No change.

i. Eggs shall be fresh, Grade A large chicken eggs. Eggs which have a retail value of 115 percent or higher than the state average for this product shall not be approved. Albacore tuna is not allowed.

j. If a vendor offers specialty eggs for retail sale, the vendor shall maintain an inventory of conventional eggs for retail sale sufficient to meet federal and state requirements for participation in the WIC program.

k. Any brand of tuna or salmon qualifies if it is either water- or oil-packed, in cans or pouches, chunked, solid, or flaked. Fish packaged with other items such as crackers, relish or other flavorings may not be purchased. Albacore tuna is not allowed.

l. Commercial infant formula shall meet the following conditions:

(1) to (4) No change.

m. At least two whole grain options that meet federal guidelines will be provided.

n. Infant food fruits, vegetables and meats must meet the federal guidelines.

o. Fresh and frozen vegetables and fruits that meet federal guidelines will be available for purchase with cash-value benefits specifically for fruits and vegetables.

p. Soy beverages shall meet federal guidelines.

q. Tofu shall meet federal guidelines.

r. Products will be evaluated for use in the Iowa WIC program based on nutrient content, packaging, container size, labeling, availability to wholesale distributors, cost and participant preference. The state reserves the right to limit the number of foods, infant formulas, exempt infant formulas, and WIC-eligible nutritional for the WIC-approved food list based on accessibility, availability, retail value of product, USDA recommendations, increased number of WIC participants, changes in appropriation of funds and administrative efficiency.
s. The approved food list provides more specifics on what is allowed or not allowed for each of the WIC-approved foods.

In addition to the criteria specified above, the department reserves the right to further restrict the number and types of brands of any products in order to contain the cost of the food package through competitive procurement of rebate contracts or other similar means.

The department reserves the right to discontinue specific brand names and products if the cost is 115 percent or more higher than the state average for that particular product.

The department reserves the right to add or delete products pursuant to federal regulations.

v. If a group of food products within a food category from one manufacturer have similar names and package designs and some of the food products do not qualify, the department reserves the right to not approve those types that would otherwise qualify, to reduce the potential for confusion by retail vendors and participants.

w. The department reserves the right to make changes to the criteria for approving products for inclusion in the WIC food package.

x. The department reserves the right to add or delete products pursuant to federal regulations.

ITEM 13. Amend paragraph 73.9(1)“c” as follows:

c. Nutrition education shall be based on information obtained through the diet and health histories nutrition interview and shall be tailored to the specific nutrition need of the participant.

ITEM 14. Amend rule 641—73.12(135) as follows:

641—73.12(135) Right to appeal—participant.

73.12(1) and 73.12(2) No change.

73.12(3) Request for hearing. A request for hearing by an individual or the individual’s parent, guardian, or other representative must be made in writing or verbally. The request for hearing shall be made to the contract agency within 90 days from the date the individual receives notice of the decision or action that is the subject of appeal.

73.12(4) Denial or dismissal of request. The request for hearing shall not be denied or dismissed unless:

a. The request is not received within the required time frame;

b. The request is withdrawn in writing by the appellant or a representative of the appellant; or

c. The appellant has been denied participation by a previous hearing and cannot provide evidence that circumstances relevant to WIC program eligibility have changed in such a way as to justify a hearing.

73.12(4) and 73.12(5) Receipt of benefits during appeal. Participants who are involuntarily terminated from the WIC program prior to the end of the standard certification period shall continue to receive WIC program benefits while the decision to terminate is under administrative appeal, provided that subsequent certifications are completed as required. Participants who appeal the termination of benefits within the 15-day advance adverse action notice period must continue to receive WIC program benefits until the hearing official reaches a decision or the certification period expires, whichever occurs first, provided that subsequent certifications are completed as required. Participants who are terminated because of categorical ineligibility (e.g., a child over five years of age) shall not continue to receive benefits during the administrative appeal period. Participants who are terminated at the end of a certification period for failure to reapply, following notice of expiration of certification, shall not continue to receive benefits during the administrative appeal period. Applicants who are denied WIC program benefits at the initial certification or at subsequent recertifications, due to a finding of ineligibility, shall not receive benefits during the administrative appeal period.

73.12(5) 73.12(6) Hearing officer. The hearing officer shall be impartial, shall not have been directly involved in the initial determination of the action being contested, and shall not have a personal stake in the decision. If the party filing the appeal objects prior to a scheduled hearing to a contract agency director serving as a hearing officer in a case involving the director’s own agency, another hearing officer shall be selected and, if necessary, the hearing shall be rescheduled as expeditiously as possible. Contract agencies may seek the assistance of the state WIC office in the appointment of a hearing officer.
73.12(6) 73.12(7) Notice of hearing. The hearing officer shall schedule the time, place and date of the hearing as expeditiously as possible. Parties shall receive notice of the hearing at least ten days in advance of the scheduled hearing. The hearing shall be accessible to the party requesting the hearing. The hearing shall be scheduled within three weeks from the date the contract agency received the request for a hearing, or as soon as possible thereafter, unless a later date is agreed upon by the parties.

73.12(7) 73.12(8) Conduct of hearing. The hearing shall be conducted in accordance with federal regulations found at 7 CFR 246.23. Copies of these regulations are available from the contract agency and the Department.

a. and b. No change.

73.12(8) 73.12(9) Decision. Decisions of the hearing officer shall be in writing and shall be based on evidence presented at the hearing. The decision shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and pertinent regulations or policy. The decision shall be issued within 45 days of the receipt of the request for a hearing, unless a longer period is agreed upon by the parties.

73.12(9) 73.12(10) Appeal of decision to the department. If either party to a hearing receives an unfavorable decision, that decision may be appealed to the department. Such appeals must be made within 15 days of the mailing date of the decision. Appeals shall be sent to the Division Director, Division of Health Promotion and Chronic Disease Prevention, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

73.12(10) 73.12(11) Contested case. Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the Iowa department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information that may be provided by the aggrieved party shall also be provided to the Iowa department of inspections and appeals.

73.12(12) Receipt of benefits during appeal to the department. If the decision being appealed concerns disqualification from the WIC program, the appellant shall not continue to receive benefits while an appeal to the department of a decision rendered on appeal at the local level is pending.

73.12(13) Hearing. Parties shall receive notice of the hearing in advance. The administrative law judge shall schedule the time, place and date of the hearing so that the hearing is held as expeditiously as possible. The hearing shall be conducted according to the procedural rules of the Iowa department of inspections and appeals found in 481—Chapter 10, Iowa Administrative Code.

73.12(14) Decision of administrative law judge. The administrative law judge’s decision shall be issued within 60 days from the date of request for hearing. When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department’s final decision without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 73.12(13) 73.12(15).

73.12(15) Appeal to director. Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the Director, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge’s proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

73.12(16) Record of hearing. Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

a. to f. No change.

73.12(17) Decision of director. An appeal to the director shall be based on the record of the hearing before the administrative law judge. The decision and order of the director becomes the department’s final decision upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.
73.12(16) 73.12(18) Exhausting administrative remedies. It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final decision of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

73.12(17) 73.12(19) Petition for judicial review. Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Division Director, Division of Health Promotion and Chronic Disease Prevention, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

73.12(18) 73.12(20) Benefits after decision. If a final decision is in favor of the person requesting a hearing and benefits were denied or discontinued, benefits shall begin immediately and continue pending further review should an appeal to district court be filed. If a final decision is in favor of the contract agency, benefits shall be terminated, if still being received, as soon as administratively possible after the issuance of the decision. Benefits denied during an administrative appeal period may not be awarded retroactively following a final decision in favor of a person applying for benefits.

ITEM 15. Amend subrule 73.13(1), introductory paragraph, as follows:

73.13(1) Right of appeal. The right of appeal shall be granted when a vendor’s application to participate is denied. The right to appeal shall also be granted when, during the course of the contract or agreement period, a vendor is disqualified or any other action which affects participation is taken. For participating vendors, a minimum of 30 15 days’ advance notice will be given before the effective date of the action. The right to appeal shall not be granted in the following circumstances:

ITEM 16. Amend subrule 73.19(1) as follows:

73.19(1) Participant violation. Violations may be detected reported by contract agency staff, by vendors, the public, FNS staff, or by department staff. Information obtained by the department is forwarded to the contract agency for appropriate action. All suspected cases of fraud will be investigated by the department. All sanctions will be administered by the department. Contract agencies will be notified of any actions taken against WIC participants by the department.

a. Whenever possible, the participant is counseled in person contacted via telephone concerning the violation. Documentation is maintained according to procedures set forth in the Iowa WIC Policy and Procedure Manual.

b. Participants who violate WIC program regulations are subject to sanction in accordance with the schedule below:

<table>
<thead>
<tr>
<th>Violation</th>
<th>Points Per Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Attempting to purchase unauthorized brands/types of foods (i.e., incorrect brands of cereal, juices, etc.).</td>
<td>3</td>
</tr>
<tr>
<td>2. Attempting to cash food instruments outside of valid dates.</td>
<td>4</td>
</tr>
<tr>
<td>3. Attempting to redeem WIC food instruments at an unauthorized vendor.</td>
<td>4</td>
</tr>
<tr>
<td>4. Redeeming WIC food instruments that were reported as lost or stolen.</td>
<td>5</td>
</tr>
<tr>
<td>5. Attempting to purchase more than the quantity of foods specified in the food benefits.</td>
<td>5</td>
</tr>
<tr>
<td>6. Verbal abuse or harassment of WIC or vendor employees.</td>
<td>5</td>
</tr>
<tr>
<td>7. Verbal abuse or harassment on social media.</td>
<td>5</td>
</tr>
<tr>
<td>8. Threat of physical abuse of WIC or vendor employees.</td>
<td>10</td>
</tr>
<tr>
<td>9. Threat of physical abuse of WIC or vendor employees on social media.</td>
<td>10</td>
</tr>
<tr>
<td>10. Attempting to sell, return, or exchange foods for cash or credit.</td>
<td>10</td>
</tr>
<tr>
<td>Violation</td>
<td>Points Per Event</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>11. Attempting to purchase unauthorized (non-WIC) foods, such as meat, canned goods, etc.</td>
<td>10</td>
</tr>
<tr>
<td>12. Attempting to purchase items that are not food.</td>
<td>10</td>
</tr>
<tr>
<td>13. Sale or exchange of WIC food items for cash or credit or giving away WIC foods.</td>
<td>10</td>
</tr>
<tr>
<td>14. Attempting to redeem food instrument issued to another participant.</td>
<td>10</td>
</tr>
<tr>
<td>15. Receiving more than one set of benefits for the same time period.</td>
<td>10</td>
</tr>
<tr>
<td>16. Knowing and deliberate misrepresentation of circumstances to obtain benefits (resulting in a false determination of eligibility).</td>
<td>10</td>
</tr>
<tr>
<td>17. Attempting to steal WIC food items from a contract agency or participant.</td>
<td>10</td>
</tr>
<tr>
<td>18. Physical abuse of WIC contract agency or vendor employees.</td>
<td>10</td>
</tr>
<tr>
<td>19. Attempting to pick up food instruments for a child that is not currently in their care.</td>
<td>10</td>
</tr>
<tr>
<td>20. Other violations of this chapter or the Iowa WIC Policy and Procedure Manual.</td>
<td></td>
</tr>
</tbody>
</table>

### Violation 1

Intentional false statement(s) or misrepresentation of income, name, residence, family size (including receiving and using benefits for children no longer in the family), medical data, pregnancy, and/or date of birth to obtain WIC benefits.

Sanction Action:

- **One-year disqualification and pay full restitution**

### Violation 2

Return of WIC foods to vendor for unapproved food items, nonfood items, credit or cash (attempted or actual). Claim amount less than $100.

Buy, trade, exchange, transfer, sell, or offer to buy, trade, exchange, transfer, sell, or allow any other person to buy, trade, exchange, transfer, sell or offer to buy, trade, exchange, transfer or sell eWIC card/benefits for unapproved food items, nonfood items, cash or favors. Claim amount less than $100.

Sanction Action:

- **Two-month disqualification and pay full restitution**

Subsequent violation of any claim amount:

- **One-year disqualification and pay full restitution**

### Violation 3

Return of WIC foods to vendor for unapproved food items, nonfood items, credit or cash (attempted or actual). Claim amount greater than $100.

Buy, trade, exchange, transfer, sell, or offer to buy, trade, exchange, transfer, sell, or allow any other person to buy, trade, exchange, transfer, sell or offer to buy, trade, exchange, transfer, sell WIC foods for unapproved food items, nonfood items, cash or favors. Claim amount greater than $100.

Sanction Action:

- **One-year disqualification and pay full restitution**

### Violation 4

Creating a public nuisance or disrupting normal activities through verbal misconduct or physical disruptions at the local WIC agency, farmers market, or vendor location.

Sanction Action:

- **First violation: Education/counseling**
- **Second subsequent violation: Warning letter**
- **Third subsequent violation: Two-month disqualification**
5. Verbal abuse or harassment of WIC staff, vendors, farmers market vendors and/or other WIC participants. This includes verbal abuse or harassment in person, on social media, or over the telephone.

   Fourth subsequent violation: Any subsequent violation(s) will result in a one-year disqualification.

   Two-month disqualification

6. Physical abuse (directly or indirectly carrying out the actual harm or threatening to do harm) of WIC staff, vendors, vendor staff, farmers market vendors, farmers market vendor staff, and/or other WIC participants.

   Any violation will result in a one-year disqualification.

7. Destruction of property, theft of eWIC card(s) or theft from a local WIC agency, vendor, vendor staff, farmers market vendor, farmers market vendor staff, and/or another WIC participant.

   Any violation will result in a one-year disqualification.

8. Collusion with staff to improperly obtain benefits.

   One-year disqualification and pay full restitution

9. Dual participation resulting from intentional misrepresentation.

   One-year disqualification and pay full restitution

10. Trafficking WIC food benefits, WIC benefits, or WIC items and/or collusion with an authorized vendor.

    One-year disqualification and pay full restitution

11. Other violations of this chapter or the Iowa WIC Policy and Procedure Manual.

    As appropriate per this chapter or the Iowa WIC Policy and Procedure Manual

   e. The accumulation of 10 violation points within a 12-month period will result in a 2-month disqualification. The accumulation of 10 additional violation points within a 12-month period following the disqualification will result in a 3-month disqualification. The participant must then reapply for the WIC program and be scheduled for a certification.

   c. Local law enforcement may be notified in appropriate cases.

   d. Fifteen days’ notice must be given prior to all disqualifications. In all cases, the participant must be informed of the reason for the disqualification, of the right to appeal the decision through the fair hearing process, and of eligibility to reapply for the WIC program and receive WIC services at the end of the disqualification period.

   e. A disqualification generally applies to all members of a family who are on the WIC program. The competent professional authority may waive the disqualification for one or more members of the family if it is determined that a serious health risk may result from WIC program disqualification. The reason for this waiver must be documented in the participant’s file.

   f. Violations are cumulative. However, a participant will not have sanctions assessed for committing a second violation when the second violation occurs before the participant receives notice of the first violation and the second violation is the same as the first. A participant who commits the same violation a second time following receipt of a notice for the first violation is subject to a one-year disqualification.

   g. When a participant improperly received benefits as a result of intentionally making a false or misleading statement(s) or intentionally misrepresenting, concealing, or withholding facts, the department shall collect the cash value of the improperly used food instruments or sells or attempts to sell benefits the participant received from the WIC program and is disqualified from the WIC program, the participant may be required to make restitution of the cash value of the improperly received or used WIC benefits. Collection of overpayment is not required when the department determines it is not cost effective to do so. The department may establish a claim against the participant for the full value of the improperly received benefits.
The contract agency department shall issue a written notice of restitution and disqualification. The written notice lists the serial numbers and dollar value of the food instruments for which payment is required.

The participant is required to surrender any unspent food instruments and send payment to the department in check or money order for those food instruments that have been cashed.

If the participant chooses a repayment plan for claims, the department will assist in developing a payment schedule. If the participant has not paid the department directly within 30 days of the notice of restitution and disqualification, the department will pursue collection of the dollar amount owed and benefits will be discontinued until the claim is paid.

h. The department may decide not to impose a mandatory disqualification if a family makes full restitution for a monetary claim, establishes a repayment schedule within 30 days of receipt of the letter demanding repayment, makes full restitution or agrees to a repayment schedule or, in the case of a participant who is an infant, a child, or under the age of 18, the state or local agency approves the designation of a proxy. The department may permit the participant to receive WIC services before the end of a mandatory disqualification period if full restitution is made or a repayment schedule is agreed upon or, in the case of a participant who is an infant, a child, or under the age of 18, the department or local agency approves the designation of a proxy. All decisions are at the discretion of the department.

i. When a disqualification period has ended, the individual disqualified may be reinstated if the individual’s certification period is still current. If the individual’s certification period is not current, the individual will need to complete a certification appointment.

j. Each contract agency department shall maintain a master list of all participant violation notices, disqualifications, and statements of restitution. The participant’s notice of violation must also indicate when it is a second offense.

ITEM 17. Amend paragraph 73.19(2)“b” as follows:

b. Administrative and procedural violation points. Administrative and procedural violations are offenses to the provisions of the WIC vendor agreement that do not rise to the level of fraud against the WIC program or its participants.

These violations are an indication of a vendor’s inattention to or disregard of the requirements of the WIC vendor agreement. It is in the department’s interest to record and consider these violations when considering whether to continue its contractual relationship with the vendor.

One or more transactions prior to notification of the vendor constitute only one violation if they contain the same error.

The assignment of violation points does not limit the department’s right to effect stronger penalties and sanctions in cases in which there is evidence of an intentional or systematic practice of abusing or defrauding the Iowa WIC program.

<table>
<thead>
<tr>
<th>Violation</th>
<th>Points Per Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Developing and using promotional materials including stickers, tags,</td>
<td>5</td>
</tr>
<tr>
<td>or channel strips with the WIC service mark to identify WIC-approved foods.</td>
<td></td>
</tr>
<tr>
<td>2. Developing and using vendor-created WIC vendor identification decals</td>
<td>5</td>
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<tr>
<td>to indicate vendor is an authorized vendor.</td>
<td></td>
</tr>
<tr>
<td>3. Failure to allow WIC participants to leave the vendor with WIC foods</td>
<td>5</td>
</tr>
<tr>
<td>that were debited/removed from their eWIC account during a WIC transaction.</td>
<td></td>
</tr>
<tr>
<td>4. Failure to post eWIC signs in the cash register lane that has a working</td>
<td>5</td>
</tr>
<tr>
<td>WIC terminal if the vendor is not integrated.</td>
<td></td>
</tr>
<tr>
<td>5. Failure to provide vendor ECR system participant receipts to WIC</td>
<td>5</td>
</tr>
<tr>
<td>participants during each WIC transaction.</td>
<td></td>
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<tr>
<td>6. Failure to reimburse department for potentially overpaid food</td>
<td>10</td>
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<tr>
<td>instrument or provide reasonable explanation for the cost of the food</td>
<td></td>
</tr>
<tr>
<td>instrument.</td>
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<tr>
<td>7. Refusal to accept valid WIC food instruments from participants.</td>
<td>10</td>
</tr>
</tbody>
</table>
## Violation

<table>
<thead>
<tr>
<th>Violation</th>
<th>Points Per Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Discriminatory treatment of WIC participants, such as requiring WIC participants to use special checkout lanes or provide extra identification, or disallowing the use of coupons or other vendor discounts in WIC transactions that are allowed in non-WIC transactions.</td>
<td>10</td>
</tr>
<tr>
<td>9. Treating WIC customers differently by offering them incentive items, vendor discounts, coupons, or other promotions that are not offered to non-WIC customers.</td>
<td>10</td>
</tr>
<tr>
<td>10. Providing to WIC participants incentive items not prior authorized by the department.</td>
<td>10</td>
</tr>
<tr>
<td>11. Failure to carry out corrective action plan developed as a result of monitoring visit.</td>
<td>10</td>
</tr>
<tr>
<td>12. Accepting the return of food purchased with WIC food instruments for cash or credit toward other purchases.</td>
<td>10</td>
</tr>
<tr>
<td>13. Issuing “rain checks” or credit in exchange for WIC food instruments.</td>
<td>10</td>
</tr>
<tr>
<td>14. Stocking out-of-date, stale, or moldy WIC foods.</td>
<td>10</td>
</tr>
<tr>
<td>15. Failure to submit vendor price assessment reports as requested.</td>
<td>10</td>
</tr>
<tr>
<td>16. Failure to train all employees and ensure their knowledge regarding WIC program procedures set forth in the vendor’s current agreement and in the current publication of the Iowa WIC program’s vendor instruction booklet.</td>
<td>10</td>
</tr>
<tr>
<td>17. Requiring WIC participants to purchase a particular brand when other WIC-approved brands are available.</td>
<td>10</td>
</tr>
<tr>
<td>18. Not allowing WIC participants to use discount coupons or promotional specials to reduce the WIC food instrument amount.</td>
<td>10</td>
</tr>
<tr>
<td>19. Requiring to enter the PIN for the participant and/or asking for the participant’s PIN.</td>
<td>10</td>
</tr>
<tr>
<td>20. For vendors that have special WIC prices, failure to post WIC prices on the shelf or on the package.</td>
<td>15</td>
</tr>
<tr>
<td>21. Contacting WIC participants in an attempt to recover funds not paid by WIC.</td>
<td>15</td>
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<tr>
<td>22. Providing false information on the price assessment report.</td>
<td>15</td>
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<tr>
<td>23. Knowingly entering false information or altering information on the eWIC receipt/benefits.</td>
<td>10</td>
</tr>
<tr>
<td>24. Requiring other cash purchases to redeem WIC food instruments.</td>
<td>15</td>
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<tr>
<td>25. Failure to obtain infant and/or special needs formula from an approved source listed by the State Iowa WIC program.</td>
<td>15</td>
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<tr>
<td>26. Offering incentive items with a value of more than $1.99.</td>
<td>15</td>
</tr>
<tr>
<td>27. Scanning any UPC code that is not affixed to the actual item being purchased by the WIC participant.</td>
<td>20</td>
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<tr>
<td>28. Failure to allow purchase of up to the full amount of WIC foods authorized on the food instrument if such foods are available and desired by the WIC participant.</td>
<td>20</td>
</tr>
<tr>
<td>29. Other violations of this chapter or the WIC vendor agreement or the Iowa WIC Policy and Procedure Manual.</td>
<td>20</td>
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</tbody>
</table>

**ITEM 18.** Amend paragraph 73.19(2)“d” as follows:

- **g.** The following items do not have a point value, but shall result in or extend a disqualification period:
(1) Failure to return WIC vendor stamp(s) to the WIC program within ten days of effective date of disqualification, or expiration of agreement following denial of subsequent application, shall result in a 30-day extension of a disqualification period.

(2) For each month in which a vendor accepts WIC food instruments during a disqualification period, the disqualification period shall be extended by 30 days.

ITEM 19. Amend rules 641—73.23(135) and 641—73.24(135) as follows:

641—73.23(135) Grant application procedures for contract agencies. Private, nonprofit or public agencies wishing to provide WIC services shall may be required to file a letter of intent to make application to the department no later than April 1 of the competitive year. Applications shall be to administer WIC services for a specified project period, as defined in the request for proposal, with an annual continuation application. The contract period shall be from October 1 to September 30 annually. All materials submitted as part of the grant application are considered public records in accordance with Iowa Code chapter 22, after a notice of award is made by the department. Notification of the availability of funds and grant application procedures will be provided in accordance with the department rules found in 641—Chapter 176.

Contract agencies are selected on the basis of the grant applications submitted to the department. The department will consider only applications from private, nonprofit or public agencies. In the case of competing applications, the contract will be awarded to the agency that scores the highest number of points in the review. Copies of review criteria are available from: Chief, Bureau of Nutrition and Health Promotion Physical Activity, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; (515)281-7095 or 1-800-532-1579.

641—73.24(135) Participant rights. The special supplemental nutrition WIC program for women, infants and children shall be open to all eligible persons regardless of race, color, sex, creed, age, mental/physical handicap or national origin. The USDA Nondiscrimination Statement can be found on the following USDA Web site website: http://www.fns.usda.gov/sites/default/files/cr/Nondiscrimination-Statement.pdf.

[Filed 5/8/19, effective 7/10/19]
[Published 6/5/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/5/19.

ARC 4488C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to local public health services

The Public Health Department hereby amends Chapter 80, “Local Public Health Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.11.
Purpose and Summary

These amendments clarify, using simpler language, the definitions for “core public health functions” and “essential public health services”; change the narrowly defined education requirements to the broader category of “health-related field”; and make technical changes to clearly ensure the grandfathering of people who already provide services under this chapter.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as ARC 4362C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on May 8, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 10, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—80.2(135), definitions of “Core public health functions” and “Essential public health services,” as follows:

“Core public health functions” means the functions of assessment, policy development, and assurance:

1. Assessment means regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets in a community.

2. Policy development means formulation, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values in accordance with state public health policy.

3. Assurance means ensuring, by encouragement, regulation, or direct action, that programs and interventions which maintain and improve health are carried out by encouragement, regulation or direct action.
“Essential public health services” means activities carried out by the authorized agency fulfilling core public health functions. Essential public health services include:

1. Monitoring health status to identify and solve community health problems.
2. **Diagnosing** Identifying and investigating health problems and health hazards in the community.
3. Informing, educating and empowering people about health issues.
4. Mobilizing community partnerships and action to identify and solve health problems.
5. Developing policies and plans that support individual and community health efforts.
6. Enforcing laws and regulations that protect health and ensure safety.
7. Linking people to needed health services and assuring the provision of health care when otherwise unavailable.
8. Assuring Recruiting and maintaining a competent public health and personal health care workforce.
9. Evaluating effectiveness, accessibility, and quality of personal and population-based health services.
10. Researching for new insights and innovative solutions to health problems.

ITEM 2. Amend subrules 80.3(4) to 80.3(6) as follows:

**80.3(4) Coordination of public health services.**

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals responsible for coordinating public health services shall meet one of the following criteria:

1. Be a registered nurse (RN) who is licensed to practice nursing in the state of Iowa and who has a recommended minimum of two years of related public health experience; or
2. Possess a bachelor’s degree or higher in public health, health administration, nursing, health and human services, a health-related field or other applicable field from an accredited college or university; or
3. Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of public health services on or before June 30, 2015 January 1, 2019, are exempt from the criteria in paragraph 80.3(4)“a.”

**80.3(5) Coordination of home care aide services.**

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals performing coordination of home care aide services shall meet one of the following criteria:

1. Be a registered nurse (RN) licensed to practice nursing in the state of Iowa; or
2. Possess a bachelor’s degree or higher in public health, health administration, nursing, health and human services, a health-related field or other applicable field from an accredited college or university; or
3. Be a licensed practical nurse (LPN) licensed to practice nursing in the state of Iowa; or
4. Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of home care aide services on or before June 30, 2015 January 1, 2019, are exempt from the criteria in paragraph 80.3(5) “a.”

**80.3(6) Home care aide services.**

a. The authorized agency shall ensure that each individual assigned to perform home care aide services meets one of the following:

1. Be an individual who has completed orientation to home care in accordance with agency policy. At a minimum, orientation shall include four hours on the role of the home care aide; two hours on communication; two hours on understanding basic human needs; two hours on maintaining a healthy environment; two hours on infection control in the home; and one hour on emergency procedures. The individual shall have successfully passed an agency written test and demonstrated the ability to perform skills for the assigned tasks; or
2. Be an individual who possesses a license to practice nursing as an LPN or RN in the state of Iowa.
PUBLIC HEALTH DEPARTMENT[641](cont’d)

b. Individuals who were hired under the requirements of Chapter 80 on or before January 1, 2019, are exempt from the criteria in paragraph paragraphs 80.3(5)“a.” and 80.3(6)“a.”

c. The authorized agency shall ensure that services or tasks assigned are appropriate to the individual’s prior education and training.

d. The authorized agency shall ensure documentation of each home care aide’s completion of at least 12 hours of annual in-service (prorated to employment).

e. The authorized agency shall establish policies for supervision of home care aides.

f. The authorized agency shall maintain records for each consumer. The records shall include:

1. An initial assessment;
2. A plan of care;
3. Assignment of home care aide;
4. Assignment of tasks;
5. Reassessment;
6. An update of the plan of care;
7. Home care aide documentation; and
8. Documentation of supervision of home care aides.

[Filed 5/8/19, effective 7/10/19]
[Published 6/5/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/5/19.

ARC 4489C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to medical cannabidiol program

The Public Health Department hereby amends Chapter 154, “Medical Cannabidiol Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 124E.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124E.2, 124E.4 and 124E.11.

Purpose and Summary

These amendments implement needed updates to the rules to provide proper oversight of the program. These amendments are in response to issues that have become apparent since the program was initiated. Updates include:

- A mechanism to update the list of debilitating conditions when new conditions are approved by the Board of Medicine;
- Revisions to the definitions of "debilitating medical condition," "medical cannabidiol waste," "plant material," and "stability" and the addition of definitions for "investor," "medical cannabidiol tracking number," "owner," and "patient registration number";
- Prohibitions for health care practitioners, including self-certifying, advertising certification services, or accepting remuneration beyond a consultation fee for certifying conditions;
- A mechanism to allow patients and primary caregivers to cancel their registration cards;
- Simplification of labeling requirements for manufacturers and dispensaries; and
Movement of laboratory testing requirements for manufacturers to the laboratory testing requirements and acceptance criteria document where the requirements can be updated as needed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as ARC 4363C. Twenty-three comments were received from MedPharm Iowa, a licensed manufacturer.

Summary of comments: The commenter asked for a definition of “investor” to be added, as well as for clarifications on the definitions of “plant material,” “financial backer,” and “principal.” The commenter also asked for justification for not allowing health care practitioners to advertise that they certify qualifying medical conditions, suggested that a rule banning medical cannabidiol samples was unnecessary, asked the Department to notify patients when their primary caregiver’s card has been canceled, asked for further details on when a recall would be issued by the Department, requested that operating documents with sensitive intellectual property be available only on site, asked that the Department of Public Safety be held to a timeline for completing background checks, asked for clarification of real-time data entry for tasks performed at a manufacturing facility that take time to complete, asked for clarification on processes to review changes to the laboratory testing requirements and acceptance criteria document, asked for consistency in language related to medical cannabidiol waste, asked for the removal of the patient’s and primary caregiver’s names from the secondary label or package insert, and asked for clarification of who pays for laboratory tests requested by the Department.

Summary of changes: An amendment was made to the definition of “medical cannabidiol waste,” a small change to the definition of “plant material” was incorporated, and new definitions of “investor,” “medical cannabidiol tracking number,” and “patient registration number” were added to improve the rules. It was clarified that in order to have the requirement to obtain a medical cannabidiol registration card waived by the Department, a patient must be approved for a medical cannabidiol registration card, have been issued a patient registration number, have an approved primary caregiver, and meet all requirements of Iowa Code chapter 124E. The rules were revised to reflect that the Department agrees to notify patients when the registration card of their primary caregiver has been canceled and to notify a primary caregiver when the patient’s registration card has been canceled, that the Department will consult with the Department’s medical director prior to issuing a recall, and that a manufacturer may make certain sensitive operating documents available to the Department only on site. Language regarding medical cannabidiol waste was made more consistent throughout the rules. The period of time for a manufacturer to enter data related to changes to inventory of plant material, medical cannabidiol, and waste material was extended to the end of the business day in which the changes occurred. The process for requesting approval of crop inputs was added, as was the process for reviewing and commenting on revisions to the laboratory testing requirements and acceptance criteria document. The requirement for the patient’s and primary caregiver’s names to be included on a secondary label or package insert was removed, and language relating to field samples was amended to reflect that the requirements for a laboratory to prepare and run a duplicate sample will be described in the laboratory testing requirements and acceptance criteria document.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on May 8, 2019.

Fiscal Impact

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

Jobs Impact

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

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 10, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—154.1(124E), definitions of “Debilitating medical condition,” “Medical cannabidiol waste,” “Plant material” and “Stability,” as follows:

“Debilitating medical condition” means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
   ● Severe or chronic pain.
   ● Nausea or severe vomiting.
   ● cachexia or severe wasting.
2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.
4. AIDS or HIV as defined in Iowa Code section 141A.1.
6. Amyotrophic lateral sclerosis.
7. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
   ● Severe or chronic pain.
   ● Nausea or severe vomiting.
   ● cachexia or severe wasting.
8. Parkinson’s disease.
10. Any medical condition that is recommended by the medical cannabidiol board and adopted by the board of medicine by rule pursuant to Iowa Code section 124E.5 and that is listed in 653—subrule 13.15(1).

“Medical cannabidiol waste” means medical cannabidiol that is returned, unused, unwanted, damaged, defective, expired, or contaminated and that is returned to a dispensary or manufacturer for disposal.

“Plant material” means any cannabis plant, cutting, trimming, or clone that has roots or that is cultivated with the intention of growing roots of Cannabis sativa L. or Cannabis indica, or any part thereof, including flowers, leaves, trichomes, and tissue.

“Stability” or “stable” means that after storage of an unopened package of medical cannabidiol at a licensed manufacturing facility or dispensary facility, the contents shall not vary in concentrations of THC and CBD by more or less than 15 percent by weight in milligrams per milliliter (mg/ml) for liquids and milligrams per gram (mg/g) for solids from the concentration indicated on the package label than an amount determined by the department and listed in the laboratory testing requirements and
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acceptance criteria document described in subrule 154.69(1). Thus, after storage, a solid product labeled as containing a concentration of CBD of 10 milligrams per gram shall have a detected concentration of CBD that is no more than 11.50 milligrams per gram and no less than 8.50 milligrams per gram.

ITEM 2. Adopt the following new definitions of “Investor,” “Medical cannabidiol tracking number,” “Owner” and “Patient registration number” in rule 641—154.1(124E):

“Investor” means a person making a cash investment of at least 5 percent interest in an applicant or licensed manufacturer or dispensary with the expectation of receiving financial returns.

“Medical cannabidiol tracking number” means the sales identification number assigned by a dispensary to a transaction at the time of the sale of a medical cannabidiol product.

“Owner” means a person with a 5 percent or greater ownership interest in an applicant or licensed manufacturer or dispensary.

“Patient registration number” means the unique identification number issued to a patient by the department of transportation upon approval of a patient’s application by the department as described in these rules.

ITEM 3. Amend rule 641—154.2(124E), catchwords, as follows:

641—154.2(124E) Health care practitioner certification—duties and prohibitions.

ITEM 4. Adopt the following new subrule 154.2(4):

154.2(4) Health care practitioner prohibitions.

a. A health care practitioner shall not accept, solicit, or offer any form of remuneration from or to any individual, including but not limited to a patient, a primary caregiver, or an employee, investor, or owner of a medical cannabidiol manufacturer or dispensary, to certify a patient’s condition, other than accepting a fee for a patient consultation to determine if the patient should be issued a certification of a qualifying debilitating medical condition.

b. A health care practitioner shall not accept, solicit, or offer any form of remuneration from or to any individual, including but not limited to a patient, a primary caregiver, or an employee, investor, or owner of a medical cannabidiol manufacturer or dispensary, to certify an individual as a primary caregiver for a patient with respect to the use of medical cannabidiol, other than accepting a fee for a consultation to determine if the individual is a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol.

c. A health care practitioner shall not advertise certifying a qualifying debilitating medical condition as one of the health care practitioner’s services.

d. A health care practitioner shall not certify a qualifying debilitating medical condition for a patient who is the health care practitioner or a family or household member of the health care practitioner.

e. A health care practitioner shall not be designated to act as a primary caregiver for a patient for whom the health care practitioner has certified a qualifying debilitating medical condition.

f. A health care practitioner shall not receive or provide medical cannabidiol product samples.

ITEM 5. Amend subrule 154.3(4) as follows:

154.3(4) Every patient 18 years of age or older must obtain a valid medical cannabidiol registration card to use medical cannabidiol in Iowa. The department may waive this requirement for a patient who is unable to obtain a card because of health, mobility, or other issues, but only when the patient:

a. Has submitted an application for a medical cannabidiol registration card;

b. Has had the application approved by the department;

c. Has been assigned a patient registration number;

d. Has designated a primary caregiver whose application has been approved and whose medical cannabidiol registration card has been issued; and

e. Complies with all provisions of Iowa Code chapter 124E.
ITEM 6. Amend rule 641—154.6(124E) as follows:

641—154.6(124E) Denial and cancellation. The department may deny an application for a medical cannabidiol registration card, or may cancel or direct the department of transportation to cancel a medical cannabidiol registration card, for any of the following reasons:

1. Information contained in the application is illegible, incomplete, falsified, misleading, deceptive, or untrue.
2. The department or the department of transportation is unable to verify the identity of the applicant from the photo identification or other documentation presented pursuant to paragraph 154.3(1)“d”(2)“3” or 154.4(1)“c”(3)“4.”
3. The applicant violates or fails to satisfy any of the provisions of Iowa Code chapter 124E or these rules.
4. A patient, the patient’s legal guardian, or other person with durable power of attorney requests in writing that the department cancel the patient’s medical cannabidiol registration card. The department shall notify a primary caregiver in writing when the registration card of the primary caregiver’s patient has been canceled.
5. A primary caregiver requests in writing that the department cancel the primary caregiver’s medical cannabidiol registration card. The department shall notify a patient in writing when the registration card of the patient’s primary caregiver has been canceled.
6. The department becomes aware of the death of a patient or primary caregiver.

ITEM 7. Adopt the following new subrule 154.16(7):

154.16(7) Recall of medical cannabidiol products. The department may require a manufacturer to recall medical cannabidiol from dispensaries when there is potential for serious health consequences from use of the products as determined by the department. Situations that may require a recall include but are not limited to:

a. After consultation with the department’s medical director, it is determined that the distribution, sale, or use of the medical cannabidiol creates or poses an immediate and serious threat to human life or health; and

b. Other procedures available to the department to prevent or remedy a situation would result in an unreasonable delay that may place the health of patients at risk.

ITEM 8. Amend rule 641—154.17(124E) as follows:

641—154.17(124E) Manufacturer operations.

154.17(1) Operating documents. The operating documents of a manufacturer shall include all of the following:

a. A manufacturer shall maintain operating documents that accurately reflect the manufacturer’s standard operating procedures. Unless otherwise noted, a manufacturer shall make the operating documents available to the department upon request through secure electronic mail, an electronic file-sharing service, or other secure means.

b. The operating documents of a manufacturer shall include all of the following:

(1) Procedures for the oversight of the manufacturer, including descriptions of operational and management practices regarding:

(1) The forms and quantities of medical cannabidiol products that are produced at the manufacturing facility;

(2) The methods of planting, harvesting, drying, and storing cannabis. A manufacturer may make operating documents for these procedures available on site only;

(3) The estimated types and amounts of all crop inputs used in the production of medical cannabidiol;

(4) The estimated types and amounts of medical cannabidiol waste and plant material waste to be generated;

(5) The disposal methods for all waste materials;
6. Employee training methods for the specific phases of production. A manufacturer may make operating documents for these procedures available on site only;

7. Biosecurity measures and standard operating procedures used in the production and manufacturing of medical cannabidiol. A manufacturer may make operating documents for these procedures available on site only;

8. Strategies for identifying and reconciling discrepancies in inventory of plant material or medical cannabidiol;

9. Sampling strategy and quality testing for labeling purposes. A manufacturer may make operating documents for these procedures available on site only;

10. Medical cannabidiol packaging and labeling procedures;

11. Procedures for recall and market withdrawal of medical cannabidiol;

12. Plans for responding to a security breach at a manufacturing facility or while medical cannabidiol is in transit to a dispensary. A manufacturer may make operating documents for these procedures available on site only;

13. A business continuity plan. A manufacturer may make this operating document available on site only;

14. Records relating to all transport activities; and

15. Other information requested by the department.

b. (2) Procedures to ensure accurate record keeping.

c. Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas containing medical cannabidiol.

A manufacturer may make operating documents for these procedures available on site only.

c. Operating documents may be trade secrets if designated as such by a manufacturer and shall be considered confidential records pursuant to Iowa Code section 22.7(3).

154.17(2) No change.

154.17(3) Criminal background investigations.

a. A manufacturer shall not have been convicted of a disqualifying felony offense and shall be subject to a background investigation conducted by the department of public safety, including but not limited to a national criminal history record check.

b. An employee of a manufacturer shall not have been convicted of a disqualifying felony offense and shall be subject to a background investigation conducted by the department of public safety, including but not limited to a national criminal history background check.

c. An applicant or licensed manufacturer shall respond within 30 days to a request from the department or the department of public safety for more information to complete a background investigation and national criminal history background check on an owner, investor, or employee.

154.17(4) No change.

ITEM 9. Amend subrule 154.21(3) as follows:

154.21(3) Package labeling.

a. A manufacturer shall ensure that all medical cannabidiol packaging is labeled with the following information:

(1) The name and address of the manufacturer where the medical cannabidiol was manufactured;

(2) The medical cannabidiol’s primary active ingredients, including concentrations of tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid. Concentrations of tetrahydrocannabinolic acid and cannabidiolic acid may be omitted if the manufacturer uses chemical decarboxylation or other means to substantially remove the acids from the product prior to testing;

(3) Directions for use of the product, including recommended and maximum amount by age and weight, if applicable;

(4) All ingredients of the product shown with common or usual names, including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight;

(5) Instructions for storage, including light and temperature requirements, if any;

(6) Product expiration date;
The date of manufacture and lot number;

A notice with the statement, including capitalization: “This product has not been analyzed or approved by the United States Food and Drug Administration. There is limited information on the side effects of using this product, and there may be associated health risks and medication interactions. This product is not recommended for use by pregnant or breastfeeding women. KEEP THIS PRODUCT OUT OF REACH OF CHILDREN.”;

The universal warning symbol provided by the department; and

A notice with the statement: “This medical cannabidiol is for therapeutic use only. Use of this product by a person other than the patient listed on the label is unlawful and may result in the cancellation of the patient’s medical cannabidiol registration card. Return unused medical cannabidiol to a pharmacy for disposal.”

b. Labeling text shall not include any fake or misleading statements.

c. A package may contain multiple labels if the information required by this rule is not obstructed.

d. Labeling text font size shall be no smaller than 6 point A manufacturer shall ensure that directions for use of the product, including recommended and maximum amount by age and weight, if applicable, are included with the product.

ITEM 10. Amend subrule 154.23(1) as follows:

154.23(1) Return of medical cannabidiol from dispensaries and laboratory. A manufacturer shall collect at no charge unused, excess, or expired medical cannabidiol waste from dispensaries, including medical cannabidiol that was returned to a dispensary from a patient or primary caregiver, and from the laboratory that has tested samples submitted by the manufacturer. A manufacturer shall:

a. Collect waste medical cannabidiol waste from each dispensary on a schedule mutually agreed upon by the manufacturer and dispensary;

b. Collect waste medical cannabidiol from a laboratory on a schedule mutually agreed upon by the manufacturer and laboratory;

c. Dispose of the returned medical cannabidiol waste as provided in subrule 154.23(2); and

d. Maintain a written record of disposal that includes:

(1) The tracking number assigned at the time of the dispensing, if available, or the name of the patient, if the tracking number is unavailable, when the medical cannabidiol was returned to the dispensary from a patient or primary caregiver;

(2) The date the medical cannabidiol waste was returned collected;

(3) The quantity of medical cannabidiol returned waste collected; and

(4) The type and lot number of medical cannabidiol returned waste collected.

ITEM 11. Adopt the following new subrule 154.24(4):

154.24(4) Entry into the department’s secure sales and inventory tracking system. Unless otherwise provided in these rules, a manufacturer shall adhere to the following schedule for entering data into the department’s secure sales and inventory tracking system.

a. A manufacturer shall enter data in real time for data related to:

(1) Transport of plant material, waste material, and laboratory samples; and

(2) Sales of medical cannabidiol to dispensaries.

b. A manufacturer shall enter data on changes to inventory of plant material, medical cannabidiol, and waste material by the end of the business day in which the changes occurred.

c. A manufacturer shall enter data within five business days for data related to:

(1) Application and use of crop inputs and other solvents and chemicals; and

(2) Other manufacturing and production records not related to inventory of plant material, medical cannabidiol, and waste material.

ITEM 12. Amend subrule 154.25(2) as follows:

154.25(2) Record keeping and tracking requirements. Crop inputs and plant batches.

a. All crop inputs used by a manufacturer must be approved by the department prior to the first application of the input. A manufacturer shall email a request for approval of a crop input to the department. The subject line of the email shall read, “RESPONSE REQUIRED – Crop input
approval request.” The department shall have up to 48 hours to respond with an approval or denial. A manufacturer may proceed with the application if the department does not reply within 48 hours of receiving the request. A crop input will remain approved unless or until the department withdraws the approval because of newly discovered product safety concerns. The department shall give a manufacturer written notification 48 hours before withdrawing an approval of a crop input.

a. b. The manufacturer shall use the department’s secure sales and inventory tracking system to maintain an electronic record of all crop inputs for at least five years. The record shall include the following:

1. The date of input application;
2. The name of the employee applying the crop input;
3. The crop input that was applied;
4. The plants that received the application;
5. The amount of crop input that was applied; and
6. A copy of or electronic link to the safety data sheet for the crop input applied.

b. c. At the time of planting, all plants shall be tracked in a batch process with a unique batch number that shall remain with the batch through final processing into medical cannabidiol.

c. d. A manufacturer shall record any removal of plants from the batch, including the reason for removal, on a record maintained at the manufacturing facility for at least five years.

d. e. Each batch or part of a batch of cannabis plants that contributes to a lot of medical cannabidiol shall be recorded in the department’s secure sales and inventory tracking system or other manifest system.

ITEM 13. Amend paragraph 154.26(3)“b” as follows:

b. Conduct sampling and testing of all plant material and medical cannabidiol lots using acceptance criteria that are protective of patient health. The sampling and testing results shall be approved by the department and laboratory personnel and shall ensure that lots of medical cannabidiol meet allowable health risk limits for contaminants. Testing of plant material and lots shall occur as follows: described in the laboratory testing requirements and acceptance criteria document described in subrule 154.69(1).

1. At a minimum, testing of lots for cannabinoid potency and all microbiological impurities except microbiological toxins shall occur after packaging but before transport or sale to a dispensary;
2. At a minimum, testing of lots for residual solvents and processing chemicals, pesticides, and metals shall occur at the process lot stage. A packaged product that contains medical cannabidiol solely from process lots that passed laboratory testing for residual solvents and processing chemicals, pesticides, and metals does not need to be retested for these analytes provided that solvents and processing chemicals are not used during the processing into the packaged product;
3. Testing of lots for residual solvents and processing chemicals shall also occur after packaging but before transport or sale to a dispensary if solvents or processing chemicals are used in the production process after the testing of the process lot has occurred;

ITEM 14. Amend paragraph 154.30(1)“j” as follows:

j. Failure of a manufacturer’s business owner or investors to have a satisfactory result in a background investigation or national criminal history background check conducted by the department of public safety and as determined by the department.

ITEM 15. Adopt the following new subrule 154.40(7):

154.40(7) Recall of medical cannabidiol products. The department may require a dispensary to recall medical cannabidiol from the dispensary facility and patients when there is potential for serious health consequences from use of the products as determined by the department. Situations that may require a recall include but are not limited to:

a. After consultation with the department’s medical director, it is determined that the distribution, sale, or use of the medical cannabidiol creates or poses an immediate and serious threat to human life or health, and

b. Other procedures available to the department to prevent or remedy a situation would result in an unreasonable delay that may place the health of patients at risk.
ITEM 16. Adopt the following new paragraph 154.41(3)“c”:  
c. An applicant or licensed dispensary shall respond within 30 days to a request from the department or the department of public safety for more information to complete a background investigation and national criminal history background check on an owner, investor, or employee.

ITEM 17. Amend subparagraph 154.46(2)“a”(4) as follows:  
(4) Issue a label that contains the following information:  
1. The medical cannabidiol tracking number; and  
2. The date and time the medication is being dispensed patient registration number;  
3. The name and address of the dispensary;  
4. The patient’s registry identification number, name, and date of birth;  
5. The patient’s address; and  
6. Any specific instructions for use based upon manufacturer or departmental guidelines. Labeling text shall not include any false, misleading, or unsubstantiated statements regarding health or physical benefits to the patient.

ITEM 18. Adopt the following new subparagraph 154.46(2)“a”(5):  
(5) Ensure the following information, which may be printed on a secondary label or package insert, is issued with dispensed medical cannabidiol:  
1. The date and time the medical cannabidiol is dispensed;  
2. The name and address of the dispensary;  
3. Any specific instructions for use based upon manufacturer guidelines or department rules. Text shall not include any false, misleading, or unsubstantiated statements regarding health or physical benefits to the patient.

ITEM 19. Amend subparagraph 154.46(3)“a”(4) as follows:  
(4) Issue a label that contains the following information:  
1. The medical cannabidiol tracking number; and  
2. The date and time the medication is being dispensed patient registration number;  
3. The name and address of the dispensary;  
4. The patient’s registry identification number, name, and date of birth;  
5. The primary caregiver’s registry identification number, name, and date of birth;  
6. The patient’s address; and  
7. Any specific instructions for use based upon manufacturer or departmental guidelines. Labeling text shall not include any false, misleading, or unsubstantiated statements regarding health or physical benefits to the patient.

ITEM 20. Adopt the following new subparagraph 154.46(3)“a”(5):  
(5) Ensure the following information, which may be printed on a secondary label or package insert, is issued with dispensed medical cannabidiol:  
1. The date and time the medical cannabidiol is dispensed;  
2. The name and address of the dispensary;  
3. Any specific instructions for use based upon manufacturer guidelines or department rules. Text shall not include any false, misleading, or unsubstantiated statements regarding health or physical benefits to the patient.

ITEM 21. Amend paragraph 154.48(2)“a” as follows:  
a. A dispensary shall accept at no charge unused, expired, or unwanted medical cannabidiol waste from any patient or primary caregiver. A dispensary shall provide all medical cannabidiol waste to the manufacturer for disposal.

ITEM 22. Amend subrule 154.69(1) as follows:  
154.69(1) Laboratory testing requirements and acceptance criteria. The department shall work with manufacturers and laboratories to create and maintain a document describing required sampling methodology, acceptance criteria, stability-testing procedures, and other guidance for manufacturers and laboratories on testing procedures. The department shall provide manufacturers and laboratories no
PUBLIC HEALTH DEPARTMENT[641](cont’d)

less than 14 days in which to comment on proposed revisions to the document, and the department shall provide no less than 30 days’ notice before a revision takes effect. The document shall:

a. Describe the minimum number of sample units and reserve samples required for testing by the laboratory;
b. Describe an option for manufacturers to reduce the amount of testing conducted by allowing compositing of sample units or other techniques that reduce the number of tests required without compromising the safety of the products once a manufacturer has satisfactorily completed a control study for a specific extraction or production process;
c. Describe the minimum requirements for sample size and testing intervals for stability testing;
d. Be available on the department’s website (www.idph.iowa.gov).

ITEM 23. Adopt the following new subrule 154.69(4):

154.69(4) Establish a laboratory review committee. The department shall establish a laboratory review committee to assist with the review of applications by laboratories and the establishment of accepted laboratory testing standards and practices.

ITEM 24. Amend subrule 154.72(1) as follows:

154.72(1) Cannabinoids.

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, a laboratory shall, at minimum, test for and report measurements for the following cannabinoid analytes:

(1) THC;
(2) THCA;
(3) CBD; and
(4) CBDAs;
(5) CBG; and
(6) CBN.

b. A laboratory shall report that the primary sample passed or failed THC potency testing if the detected concentration of THC does not exceed 3 percent by weight in milligrams per milliliter (mg/ml) for liquids and milligrams per gram (mg/g) for solids and if the detected concentration of THC does not vary from the manufacturer’s labeled concentration by more than 15 percent by weight in mg/ml for liquids and mg/g for solids according to guidance in the laboratory testing requirements and acceptance criteria document described in subrule 154.69(1). Thus, a solid product labeled as containing a concentration of THC of 10 mg/g shall have a detected concentration of THC that is no more than 11.50 mg/g and no less than 8.50 mg/g.

c. A laboratory shall report that the primary sample failed THC potency testing if the detected concentration of THC exceeds 3 percent by weight in mg/ml for liquids and mg/g for solids or if the detected concentration of THC varies from the labeled concentration of THC by more than 15 percent by weight in mg/ml for liquids and mg/g for solids.

d. A laboratory shall report that the primary sample passed or failed CBD potency testing if the detected concentration of CBD does not vary from the manufacturer’s labeled concentration by more than 15 percent by weight in mg/ml for liquids and mg/g for solids according to guidance in the laboratory testing requirements and acceptance criteria document described in subrule 154.69(1). Thus, a solid product labeled as containing a concentration of CBD of 10 mg/g shall have a detected concentration of CBD that is no more than 11.50 mg/g and no less than 8.50 mg/g.

e. A laboratory shall report that the primary sample failed potency testing if the detected concentration of CBD varies from the labeled concentration of CBD by more than 15 percent by weight in mg/ml for liquids and mg/g for solids.

f. For each cannabinoid analyte test, a laboratory shall issue a certificate of analysis that contains the following:

(1) Concentrations of cannabinoid analytes in mg/ml for liquids and mg/g for solids, or other measures approved by the department.
(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(1)“b.” and 154.72(1)“c.” paragraph 154.72(1)“b.”

g. The laboratory may test for and provide test results for additional cannabinoid analytes if asked to do so by a requester.

ITEM 25. Amend paragraph 154.75(2)“d” as follows:
d. Field duplicate sample. A laboratory shall prepare and run a duplicate sample with every 10 to 20 samples for each analytical method as described in the laboratory testing requirements and acceptance criteria document in subrule 154.69(1). The acceptance criterion between the primary sample and the duplicate sample is less than or equal to 20 percent relative difference.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/5/19.

ARC 4490C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to organization of the department


Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2017 Iowa Acts, House File 653, division XXIII, and 2018 Iowa Acts, Senate File 2418, section 110 [Iowa Code section 135.15].

State or Federal Law Implemented

This rule making implements, in whole or in part, 2017 Iowa Acts, House File 653, division XXIII, and 2018 Iowa Acts, Senate File 2418, section 110.

Purpose and Summary

The amendments are minor cleanup actions related to recent legislation. 2018 Iowa Acts, Senate File 2418, section 110, updated the name of the “oral health bureau” to the “oral and health delivery system bureau.” The amendment in Item 1 updates the bureau name. 2017 Iowa Acts, House File 653, division XXIII, removed all references to the Office of Minority and Multicultural Health from the Iowa Code. House File 653 also removed the underlying statutory authority for Chapter 82, which was rescinded in 2018. The amendment in Item 2 rescinds the paragraph that refers to that office. The amendment in Item 3 reletters the remaining paragraphs in subrule 170.7(6).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as ARC 4360C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on May 8, 2019.
PUBLIC HEALTH DEPARTMENT[641](cont’d)

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 10, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph 170.7(6)“b” as follows:

b. The oral and health delivery system bureau, overseen by the public health dental director, promotes and advances health behaviors to reduce the risk of oral diseases and improve the oral health status of all Iowans. Programs are in place targeting pregnant women, children, and youth for the prevention, early identification, referral, and treatment of oral disease.

ITEM 2. Rescind paragraph 170.7(6)“d.”

ITEM 3. Reletter paragraphs 170.7(6)“e” to “h” as 170.7(6)“d” to “g.”

[Filed 5/8/19, effective 7/10/19]

[Published 6/5/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/5/19.

SECRETARY OF STATE[721]

Adopted and Filed

Rule making related to voter registration age

The Secretary of State hereby amends Chapter 23, “Voter Registration in State Agencies,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 48A.19.
State or Federal Law Implemented

This rule making implements, in whole or in part, 2017 Iowa Acts, House File 516.

Purpose and Summary

2017 Iowa Acts, House File 516, division VIII, lowered the voter registration age from 17½ years of age to 17 years of age effective January 1, 2019. These amendments bring the corresponding administrative rules into conformity with the law.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 10, 2019, as ARC 4384C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Secretary of State on May 15, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

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 10, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 721—23.3(48A) as follows:

721—23.3(48A) Declination forms. The offer of voter registration shall include a declination form in substantially the following form:

STATE OF IOWA
Voter Registration Information

You can apply to register to vote when you apply for assistance. This agency is required to offer you the chance to register to vote.
Registration Rules—You must be registered before you can vote in an election.
To register to vote in Iowa you must—

- be a citizen of the United States
- be a resident of Iowa
- be at least 17 years old (you must be 18 years old by election day to vote)
- not have been convicted of a felony (or have had your rights restored)
- not currently be judged “mentally incompetent” by a court
- give up the right to vote in any other place.

Help: If you would like help in filling out the voter registration form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.

Benefits: Applying to register or declining to register to vote will not affect the amount of assistance that will be provided by this agency.

Privacy: If you register to vote, the name of the office where you turn in the form will be kept private. If you do not register to vote, this fact will be kept private. This information will be used only for voter registration purposes.

Complaints: If you believe that someone has interfered with your right to
- register or to decline to register to vote,
- privacy in deciding whether to register,
- privacy in applying to register to vote,
- choose your own political party or other political preference,

you may file a complaint with:
Voter Registration Commission
Office of the Secretary of State
Lucas State Office Building
Des Moines, Iowa 50319
Telephone: (515)281-0145

If you are not registered to vote where you live now, would you like to apply to register to vote here today?

☐ Yes, I want to register to vote.
☐ No, I do not want to register to vote.

If you do not check either box, you will be considered to have decided not to register to vote at this time.

Sign here: X ____________________________
Print your name: ________________________ Date: ____________________________

ITEM 2. Amend rule 721—23.10(48A) as follows:

721—23.10(48A) Ineligible applicants.

23.10(1) Ineligible minor applicants. An agency that has applicants who are ineligible to vote because they are minors shall not offer an opportunity to register to vote to applicants who the agency has validated are under the age of 17. The agency must still offer information about voter registration to all applicants.

23.10(2) All other ineligible applicants. Except for those applicants specifically described in subrule 23.10(1), the opportunity to register to vote must be offered to every applicant. The applicant, not the agency, is responsible for determining the applicant’s eligibility to register to vote. The agency shall
SECRETARY OF STATE[721](cont’d)

accept a registration form even if it is submitted by an applicant the agency believes to be ineligible to register to vote.

Applicants who are not accepted for services or assistance by an agency shall be offered the opportunity to register to vote. Even if the applicant will not receive services or assistance from the agency, voter registration forms shall be processed and transmitted not later than the final working day of the week to the appropriate county commissioner of elections as required by Iowa Code section 48A.21.

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ARC 4492C
TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to updates of administrative procedures


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.7, 17A.9, 17A.9A and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.7, 17A.9 and 17A.9A.

Purpose and Summary

The amendments to Chapters 10, 11 and 12 update the bureau name of the Department’s rules administrator and add email as an option for a person wanting to submit a petition for rule making, petition for waiver, or petition for declaratory order to the Department. The amendments to Chapter 10 also modify language in subparagraph 10.2(2)“a”(2) to suggest that persons who have requested an oral presentation provide the Department with the general subject of the presentation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 13, 2019, as ARC 4325C. No public comments were received.
One change from the Notice was made. The word “Bureau” was added after “Strategic Communications and Policy” in Chapters 10, 11 and 12 to reflect the recent change in the Department’s office- and bureau-naming conventions.

Adoption of Rule Making

This rule making was adopted by the Department on May 14, 2019.

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 10, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 10.1(2) as follows:

10.1(2) Address. The mailing address of the department’s rules administrator is: Rules Administrator, Operations and Finance Division Strategic Communications and Policy Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. The email address of the rules administrator may be found on the department’s website at iowadot.gov/administrativerules.

ITEM 2. Amend subparagraph 10.2(2)“a”(2) as follows:

(2) If an oral presentation is requested, the requester is encouraged to set forth the general content subject of the presentation shall be indicated.

ITEM 3. Amend subrule 10.3(1), introductory paragraph, as follows:

10.3(1) The department shall accept and consider, from any person or agency, petitions for rule making when submitted to the department’s rules administrator by mail or email and prepared in conformance with the following:

ITEM 4. Amend 761—Chapter 10, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.1 to 17A.9, 17A.19, and 307.12 and section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20.

ITEM 5. Amend subrule 11.5(3) as follows:

11.5(3) Submission of petition. A petition for waiver from the requirements of a rule shall be submitted to the rules administrator either by mail to Rules Administrator, Operations and Finance Division Strategic Communications and Policy Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator’s email address listed on the department’s website at iowadot.gov/administrativerules.

ITEM 6. Amend subrule 11.8(2) as follows:

11.8(2) The operations and finance division department’s rules administrator shall, at a minimum, retain for five years records relating to waivers granted or denied under this chapter.

ITEM 7. Amend subrule 12.2(2) as follows:

12.2(2) The petition must be submitted to the department’s rules administrator at the following address: either by mail to Rules Administrator, Operations and Finance Division Strategic Communications and Policy Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames,
VOTER REGISTRATION COMMISSION[821]

Adopted and Filed

Rule making related to voter registration


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.4, 47.8 and 48A.18.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.7, 48A.5 and 48A.26.

Purpose and Summary

The amendment to rule 821—1.3(47) and adoption of new rule 821—1.8(17A) bring the Voter Registration Commission’s rules into conformity with Iowa Code section 17A.7.

The amendments to rules 821—2.12(48A) and 821—11.2(48A) are necessary due to technical changes made to Iowa’s voter registration laws by 2017 Iowa Acts, House File 516, effective January 1, 2019.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 10, 2019, as ARC 4383C. No public comments were received.

Since publication of the Notice, a change was made to rule 821—2.12(48A) to clarify a preregistered voter’s registration date if the voter’s eighteenth birthday falls in the time period between the preregistration deadline and an election.

Additionally, Item 5 was added to include an amendment to rule 821—11.2(48A) to reflect the lowering of the minimum age to register to vote from 17½ years to 17 years.

Adoption of Rule Making

This rule making was adopted by the Commission on May 15, 2019.

Fiscal Impact

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

Jobs Impact

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

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

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 10, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 821—1.3(47) as follows:

821—1.3(47) General operating rules.

1.3(1) The chair of the commission is the state commissioner of elections or the state commissioner’s designee.

1.3(2) Any member of the commission, including the chair, may make and second any motion.

1.3(3) To prevail, a motion, declaratory ruling, or ruling in a contested case must receive the votes of a majority of commissioners present and voting.

1.3(4) Rescinded IAB 10/25/95, effective 10/6/95.

1.3(5) 1.3(4) A designee of a statutory member shall present a letter from the statutory member appointing the designee.

1.3(6) 1.3(5) A quorum of the commission is four members. No official action may be taken in the absence of a quorum.

1.3(7) Any member of the public may petition the commission concerning any subject under the commission’s authority. Any member of the public may propose new rules or modifications to existing rules of the commission. Petitions or proposed rule changes may be in letter form, filed with the registrar and addressed to the commission. Any such letter must include a discussion of the problem or issue, addressing and supporting rationale for any proposed action by the commission. In addition, any such petition must state the legal authority which petitioner believes confers jurisdiction over the subject matter to the commission. Action on petitions received shall be taken not later than the second regular commission meeting following receipt of the petition. In the event a hearing is held on an issue, the hearing shall be scheduled within 90 days of receipt of the petition.

ITEM 2. Adopt the following new rule 821—1.8(17A):

821—1.8(17A) Petition for rule making. Any person or agency may file a petition for rule making with the voter registration commission at the Secretary of State’s Office, First Floor, State Capitol Building, Des Moines, Iowa 50319, or the Secretary of State’s Office, Lucas State Office Building, Des Moines, Iowa 50319. A petition is deemed filed when it is received in either office. The state registrar must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:
The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation to the particular portion or portions of the rule proposed to be amended or repealed, together with a quotation of the relevant language.

2. A citation to any law deemed relevant to the commission’s authority to take the action urged or to the desirability of that action.

3. A brief summary of petitioner’s arguments in support of the action urged in the petition.

4. A brief summary of any data supporting the action urged in the petition.

5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.

6. Any request by petitioner for a meeting provided for by subrule 1.8(5).

1.8(1) The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative (if one is involved), and a statement indicating the person to whom communications concerning the petition should be directed.

1.8(2) The commission may deny a petition because it does not substantially conform to the required form.

1.8(3) The petitioner may attach a brief to the petition in support of the action urged in the petition. The commission may request a brief from the petitioner or from any other person concerning the substance of the petition.

1.8(4) Inquiries concerning the status of a petition for rule making may be made to the Deputy Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319.

1.8(5) Upon receipt of a petition for rule making, the following steps shall be taken:

a. Within 30 days after the filing of a petition, the state registrar must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the agency must schedule a brief and informal meeting between the petitioner and a designee of the state registrar to discuss the petition. The commission may request the petitioner to submit additional information or argument concerning the petition. The commission may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the commission by any person.

b. Within 90 days after the filing of the petition, or within any longer period agreed to by the petitioner, the commission must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when a designee of the commission mails or delivers the required notification to petitioner.

c. Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency’s rejection of the petition.

ITEM 3. Amend 821—Chapter 1, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.7, 47.7 and 47.8.
VOTER REGISTRATION COMMISSION[821](cont’d)

ITEM 4. Amend rule 821—2.12(48A) as follows:

821—2.12(48A) County registration date. For the purposes of determining timeliness of an application to register to vote, the county registration date shall be determined as follows:

2.12(1) The county registration date for an in-person applicant at least 18 years of age is the date the registration application is received by the commissioner or the commissioner’s designee. However, when preregistration is closed in the applicant’s precinct due to a pending election, the county registration date shall be the date of the day after the pending election unless the applicant registers pursuant to Iowa Code section 48A.7A.

2.12(2) The county registration date for a by-mail applicant at least 18 years of age is the date the registration application is received by the commissioner, unless the application is postmarked on or before the worry-free postmark date established pursuant to Iowa Code section 48A.9, subsection 3. However, when preregistration is closed in the applicant’s precinct due to a pending election, the county registration date shall be the date of the day after the pending election unless the applicant registers pursuant to Iowa Code section 48A.7A.

2.12(3) The county registration date for an application received from a source other than in person or by mail is the date the application is received by the commissioner or submitted to the office of driver services, department of transportation, or to a voter registration agency pursuant to Iowa Code section 48A.19, whichever is earlier.

2.12(4) The county registration date for applicants aged 17 to 18 shall be the date of the applicant’s eighteenth birthday, except the county commissioner shall indicate that the person is registered and qualifies to vote at the pending primary election if the applicant will be at least 18 years of age on the date of the respective general election or city election. However, if an application is submitted when preregistration is closed in the applicant’s precinct on and the applicant’s eighteenth birthday is on or before election day, the county registration date shall be the date of the day after the pending election unless the applicant registers pursuant to Iowa Code section 48A.7A.

ITEM 5. Amend rule 821—11.2(48A) as follows:

821—11.2(48A) Driver services client to be afforded opportunity to apply to register to vote or make changes to existing registration. Every client, aged 17 years 6 months or older, of the office of driver services, DOT, shall be advised by the driver license clerk of the availability of voter registration services in substantially the following manner: “Would you like to apply to register to vote, or update your registration? It can be done quickly and easily at the same time as you get your (license — ID — other, as appropriate).”

1. If the client’s reply to the driver license clerk’s rule 821—11.2(48A) question is negative, the driver license clerk shall not pursue the matter of voter registration.

2. If the client’s reply to the driver license clerk’s rule 821—11.2(48A) question is affirmative, or the client expresses uncertainty of the client’s current registration status, the driver license clerk shall invoke the computer operation required in rule 821—11.1(48A).

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/5/19.
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| Medicine Board[653] | ch 20    | Effective date of April 17, 2019, delayed 70 days by the Administrative Rules Review Committee at its meeting held April 5, 2019. [Pursuant to §17A.4(7)]  
|                 | [IAB 3/13/19, ARC 4339C] | Delay Lifted: At its meeting held May 14, 2019, the Committee lifted the delay, effective May 14, 2019. |