IOWA ADMINISTRATIVE BULLETIN

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Pages 2995 to 3123 include **ARC 3814C** to **ARC 3840C**

PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor Telephone: (515)281-3355

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making
2018

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

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
1	**Wednesday, June 13, 2018**	**July 4, 2018**
2	**Friday, June 29, 2018**	**July 18, 2018**
3	**Friday, July 13, 2018**	**August 1, 2018**

PLEASE NOTE:

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

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

Note change of filing deadline

ALCOHOLIC BEVERAGES DIVISION[185]

Licenses; permits; forms, amend chs 4, 5; rescind ch 12 IAB 6/6/18 **ARC 3817C**	Division Board Room 1918 S.E. Hulsizer Rd. Ankeny, Iowa	June 26, 2018 9 a.m. (If requested)

CORRECTIONS DEPARTMENT[201]

Review and update of policies and procedures, amendments to chs 1, 5, 10, 11, 20, 38, 40 to 45, 47, 50, 51 IAB 5/23/18 **ARC 3806C**	Conference Room 510 510 E. 12th St. Des Moines, Iowa	June 12, 2018 11 a.m. to 1 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Expiration date of licenses, 13.6, 13.30, 18.4, 23.2, 27.2 IAB 6/6/18 **ARC 3827C**	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	June 27, 2018 1 p.m.

EDUCATION DEPARTMENT[281]

Accreditation standards—statewide summative assessment, policy prohibiting the aiding and abetting of sexual abuse, 12.3(14), 12.8(1)"h" IAB 6/6/18 **ARC 3822C**	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 26, 2018 9 to 10 a.m.
Iowa learning online—provision of distance education to students receiving private instruction, 15.10, 15.12 to 15.15 IAB 6/6/18 **ARC 3823C**	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 26, 2018 10 to 11 a.m.
Community colleges—career and technical general education credits, transfer major programs, developmental education, 21.2 to 21.4 IAB 6/6/18 **ARC 3824C**	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 26, 2018 11 a.m. to 12 noon

ENVIRONMENTAL PROTECTION COMMISSION[567]

Solid waste management and disposal, amend chs 119, 211; rescind chs 123, 144, 214; adopt ch 123 IAB 6/6/18 **ARC 3826C**	Conference Room 4 West Wallace State Office Bldg. Des Moines, Iowa	June 27, 2018 1 to 3 p.m.

LABOR SERVICES DIVISION[875]

Boilers and pressure vessels; water heaters, amend chs 84, 90, 91; rescind ch 95 IAB 5/23/18 **ARC 3807C**	150 Des Moines St. Des Moines, Iowa	June 13, 2018 9 a.m. (If requested)

NATURAL RESOURCE COMMISSION[571]

Snowmobile fee grants, cost-share programs, and contracts, adopt 47.10; rescind 47.30 to 47.47 IAB 6/6/18 **ARC 3828C**	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	June 26, 2018 9 to 10 a.m.

TRANSPORTATION DEPARTMENT[761]

Special registration plates, amendments to ch 401 IAB 6/6/18 **ARC 3820C**	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	June 28, 2018 10 a.m. (If requested)

UTILITIES DIVISION[199]

Inmate calling rates, 22.19(8) IAB 5/9/18 **ARC 3773C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	July 10, 2018 1 to 3 p.m.
Universal service, 39.2, 39.3, 39.6, 39.7, 39.8(1) IAB 4/25/18 **ARC 3753C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	June 20, 2018 9 a.m. to 12 noon

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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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
  Soil Conservation and Water Quality Division[27]
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ARC 3817C

ALCOHOLIC BEVERAGES DIVISION[185]

Notice of Intended Action

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

The Alcoholic Beverages Division hereby proposes to amend Chapter 4, "Liquor Licenses—Beer Permits—Wine Permits," Chapter 5, "License and Permit Division," and Chapter 12, "Forms," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 123 as amended by 2017 Iowa Acts, House File 607, and 2016 Iowa Acts, House File 2359, section 51.

Purpose and Summary

This proposed rule making implements changes to the Iowa Code enacted in 2017 Iowa Acts, House File 607, and 2016 Iowa Acts, House File 2359. The proposed amendments to Chapters 4 and 5 are intended to clarify existing rules and to add new rules where required by House File 607. The proposed amendment in Item 4 rescinds rule 185—4.24(123) because it is unnecessary to implement the changes in House File 2359. For accessibility, the proposed amendment to subrule 5.9(4) in Item 6 relocates from Chapter 12 the contents of the forms used to furnish a surety bond when one is required during the process of obtaining a license or permit. As a result, Chapter 12 of the Division's rules is being rescinded.

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 185—Chapter 19.

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 26, 2018. Comments should be directed to:

Stephanie Strauss
Alcoholic Beverages Division
1918 S.E. Hulsizer Road
Ankeny, Iowa 50021
Email: strauss@iowaabd.com

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

Public Hearing

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

June 26, 2018	Division Board Room
9 a.m.	1918 S.E. Hulsizer Road
	Ankeny, 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 a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Stephanie Strauss, the Division's rules coordinator, 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. Amend rule 185—4.1(123) as follows:

185—4.1(123) Definitions.

~~4.1(1)~~ "Act" means the alcoholic beverage control Act.

~~4.1(2)~~ ~~*"Division"* means the alcoholic beverages division of the department of commerce.~~

~~4.1(3)~~ ~~*"Growler"* means any fillable and sealable glass, ceramic, plastic, aluminum or stainless steel container designed to hold only beer or high alcoholic content beer.~~

~~4.1(4)~~ ~~*"Original container"* means a vessel containing an alcoholic beverage that has been lawfully obtained, bears a label approved by the Alcohol and Tobacco Tax and Trade Bureau, and has been securely capped, sealed or corked at the location of manufacture.~~

~~4.1(5)~~ ~~Reserved.~~

4.1(6) "Administrator" means the chief administrative officer of the alcoholic beverages division or a designee.

~~4.1(7)~~ "Beverages" as used in Iowa Code section ~~123.129~~ 123.3(18) does not include alcoholic liquor, wine, or beer as defined in Iowa Code sections 123.3(4), 123.3(5), 123.3(7), 123.3(19), 123.3(28), 123.3(30), 123.3(43) and ~~123.3(37)~~ 123.3(47).

"Division" means the alcoholic beverages division of the department of commerce.

This rule is intended to implement Iowa Code sections 123.3 and 123.4.

ITEM 2. Amend rule 185—4.4(123) as follows:

185—4.4(123) Licensed premises. The following criteria must be met before a "place" (as used in Iowa Code section ~~123.3(20)~~ 123.3(25)) may be licensed as a "place susceptible of precise description satisfactory to the administrator."

4.4(1) The "place" must be owned by or under the control of the prospective licensee.

4.4(2) The "place" must be solely within the jurisdiction of one local approving authority.

4.4(3) The "place" must be described by a sketch of the ~~"premise"~~ "premises" as defined in Iowa Code section ~~123.3(20)~~ 123.3(25) and showing the boundaries of the proposed "place"; showing the

locations of selling/serving areas within the confines of the "place"; showing all entrances and exits; and indicating the measurements of the "place," and distances between selling/serving areas.

4.4(4) The "place" must satisfy the health, safety, fire and seating requirements of the division, local authorities and ~~Iowa department of agriculture and land stewardship~~ the Iowa department of inspections and appeals.

4.4(5) Any other criteria as required by the administrator.

This rule is intended to implement Iowa Code sections ~~123.3(20)~~ 123.3(25) and 123.4.

ITEM 3. Amend rule 185—4.6(123) as follows:

185—4.6(123) Filling and selling of beer in a container other than the original container ~~by class "C" beer permit holders.~~ ~~Class~~ Liquor control license holders, class "B" and class "C" beer permit holders, and their employees may fill, refill and sell beer in a container other than the original container, otherwise known as a growler ~~as defined in subrule 4.1(3)~~, subject to the requirements and restrictions provided in Iowa Code ~~section~~ sections 123.131 and 123.132 and in this rule.

4.6(1) ~~*Definition*~~ *Definitions.*

"Beer," for the purpose of this rule, means "beer" as defined in Iowa Code section 123.3(7) and "high alcoholic content beer" as defined in Iowa Code section 123.3(19).

"Growler," for the purpose of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold only beer or high alcoholic content beer.

"Original container," for the purpose of this rule, means a vessel containing beer that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture. For special class "A" beer permit holders, an "original container" includes a tank used for storing and serving beer.

4.6(2) No change.

4.6(3) *Filling and refilling requirements.*

a. No change.

b. A growler shall be filled or refilled only by the licensee or permittee or the licensee's or permittee's employees who are 18 years of age or older.

c. No change.

d. A growler shall be filled or refilled only with beer from the original container procured from a duly licensed wholesaler unless the beer being used to fill or refill a growler on the premises of a special class "A" beer permit holder was manufactured by that special class "A" beer permit holder on the permitted premises.

e. and *f.* No change.

4.6(4) *Sealing requirements.* A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or permittee or the licensee's or permittee's employees in the following manner:

a. A growler shall bear a ~~twist-type~~ cap, ~~screw-on cap, flip-top~~ lid, ~~swing-top lid,~~ stopper, or plug.

b. A plastic heat shrink wrap band, strip, or sleeve shall extend around the ~~twist-type~~ cap, ~~screw-on cap, flip-top lid,~~ or ~~swing-top~~ lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer shall not require a plastic heat shrink wrap band, strip, or sleeve.

c. and *d.* No change.

4.6(5) *Restrictions.*

a. to *d.* No change.

e. A licensee or permittee or a licensee's or permittee's employees shall not allow a consumer to fill or refill a growler.

f. and *g.* No change.

h. An original container shall only be opened on the ~~licensed~~ premises of a class "C" beer permit holder for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

4.6(6) *Violations.* Failure to comply with the requirements and restrictions of this rule shall subject the licensee or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code ~~section~~ sections 123.123, 123.131, and 123.132.

ITEM 4. Rescind and reserve rule **185—4.24(123)**.

ITEM 5. Adopt the following **new** rule 185—5.2(123):

185—5.2(123) Annual production of a native distillery. A native distillery is a business with an operating still which produces and manufactures native distilled spirits and holds a class "A" native distilled spirits license. The total number of proof gallons of native distilled spirits produced and manufactured by a native distillery on an annual basis shall be used to determine the amount of native distilled spirits that may be sold per person per day from the native distillery's licensed premises for off-premises consumption and to determine eligibility to obtain a class "C" native distilled spirits liquor control license.

5.2(1) *Definitions.*

"Annual basis," for the purpose of this rule, means a year as defined in Iowa Code section 4.1(40) beginning January 1 and ending December 31.

"Native distilled spirits" means an alcoholic beverage as defined in Iowa Code section 123.3(28).

"Operating still," for the purpose of this rule, means a still that is registered with the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 19.75(b) and is actively used to manufacture spirits.

"Proof gallon," for the purpose of this rule, means a United States gallon of proof spirits, or the alcoholic equivalent thereof, as defined by the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 30.11.

5.2(2) The total number of proof gallons of native distilled spirits produced and manufactured by a native distillery on an annual basis shall combine all production facilities of the business and shall be determined based on the 12-month sum of line 26 of Alcohol and Tobacco Tax and Trade Bureau form 5110.28, Monthly Report of Processing Operations, filed monthly by the native distillery with the division, pursuant to Iowa Code section 123.43A(5).

5.2(3) The amount of native distilled spirits that may be sold per person per day from a native distillery's licensed premises for off-premises consumption shall be determined based on the total number of proof gallons of native distilled spirits as determined in subrule 5.2(2) for the preceding calendar year beginning January 1 and ending December 31.

5.2(4) As a condition of obtaining a class "C" native distilled spirits liquor control license, a native distillery shall report to the division, at the time of application, the total number of proof gallons of native distilled spirits as determined in subrule 5.2(2) for the preceding calendar year beginning January 1 and ending December 31.

This rule is intended to implement Iowa Code sections 123.3(29), 123.30(3)*"c"*(3), 123.31(6) and 123.43A.

ITEM 6. Amend rule 185—5.9(123) as follows:

185—5.9(123) Surety bond requirements. A $5,000 ~~penal~~ surety bond ~~must~~ shall be filed with the division with each application for a ~~Class~~ class "A" wine permit~~, Class "A" beer permit, special Class "A" beer permit and manufacturer's license~~ and with each application for a wine direct shipper license unless the applicant for the wine direct shipper license posted a surety bond as part of obtaining a class "A" wine permit. A $10,000 surety bond shall be filed with the division for each application for a class "A" beer permit or special class "A" beer permit. A ~~$5,000, $10,000 or $15,000 penal~~ surety bond ~~must~~ in an amount of at least $5,000 but not more than $15,000 shall be filed with the division with each application for a ~~Class~~ class "E" liquor control license. ~~A Class "E" liquor control licensee may determine the amount of the bond to be posted with the division, and may increase or decrease the face~~

~~amount of the bond in increments of $5,000 on one occasion during the licensee's first year of business. Thereafter, a licensee may increase or decrease the face amount of the bond in increments of $5,000 only when the liquor control license is renewed.~~ Each ~~penal~~ surety bond ~~must~~ shall meet the following requirements.

5.9(1) *Certificate of authority.* ~~It must~~ The surety bond shall be issued by a company holding a current certificate of authority from the commissioner of insurance authorizing the company to issue bonds in Iowa.

5.9(2) *Forfeiture of bond.* ~~It must~~ The surety bond shall contain a provision for the principal and surety to consent to the forfeiture of the principal sum of the bond in the event of revocation of the license or permit by the violation of any Iowa Code provision which requires forfeiture of the bond.

5.9(3) *Cancellation.* A surety company or a principal may cancel a bond by giving a minimum of 30 days' written notice to this division of the party's intent to cancel the bond. The 30-day period shall commence on the date that this division receives the notice of cancellation. The party seeking to cancel a bond shall ~~mail~~ submit written notice of such cancellation to the division in Ankeny, Iowa, ~~by certified mail,~~ and further shall ~~mail~~ submit a copy of the notice of cancellation to the other party~~, at that party's post office address~~. The notice of cancellation shall contain: the name of the party to whom the copy of the notice of cancellation was ~~mailed~~ submitted, ~~the address to which the copy of the notice of cancellation was sent,~~ the date on which the notice of cancellation was ~~mailed~~ submitted, the date the bond is being canceled, and the license or permit number of the licensee or permittee to be affected by such cancellation.

The cancellation or notice thereof shall have no force or effect in the event that the principal's license or permit has been revoked during the period of the bond or when an administrative hearing complaint has been filed~~,~~ and charges are currently pending against the licensee or permittee which could result in revocation of the license or permit after an administrative hearing on the complaint.

5.9(4) *Proof of bond.* A licensee or permittee shall be deemed to have furnished a surety bond when the licensee or permittee has filed with the division ~~at its offices in Ankeny, Iowa, a form described by 185—subrule 12.2(7)~~ a form prescribed by the division containing the following: the name of the bond provider; the city and state where the bond provider is located; the bond number, the names of the principal, and the city and state where the principal is located; the amount of the bond; the type of license or permit guaranteed by the bond; the effective date of the bond; signatures of the principal and the bond provider; and any other information the administrator of the division may require.

5.9(5) to **5.9(7)** No change.

This rule is intended to implement Iowa Code sections ~~123.21,~~ 123.30, ~~123.128 and 123.129~~ 123.127, 123.175, and 123.187.

ITEM 7. Rescind and reserve **185—Chapter 12**.

ARC 3827C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

The Board of Educational Examiners hereby proposes to amend Chapter 13, "Issuance of Teacher Licenses and Endorsements," Chapter 18, "Issuance of Administrator Licenses and Endorsements," Chapter 23, "Behind-the-Wheel Driving Instructor Authorization," and Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

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

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.7 as amended by 2018 Iowa Acts, House File 2283.

Purpose and Summary

The proposed amendments are intended to implement 2018 Iowa Acts, House File 2283, which amends Iowa Code section 272.7 by eliminating the requirement that licenses remain valid until the last day of the practitioner's birth month, thus allowing the Board to adjust the expiration date for the initial license to align with the academic year.

Fiscal Impact

Board staff estimates that the Board has typically processed approximately 300 extensions per year that would be unnecessary in the future when these amendments become effective. Because the extension fee is $25, the reduction in the number of extensions would result in a decrease of $7,500 in fees collected by the Board annually and $1,875 less in the Board's annual deposit to the General Fund.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 29, 2018. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
Grimes State Office Building
400 East 14th Street and Grand Avenue
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

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

June 27, 2018	Room 3 Southwest
1 p.m.	Grimes State Office Building
	Des Moines, Iowa

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs by calling the Office of the Executive Director at 515.281.5849.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 282—13.6(272) as follows:

282—13.6(272) Specific requirements for an initial license. An initial license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant who meets the general requirements set forth in rule 282—13.5(272).

ITEM 2. Amend rule 282—13.30(272) as follows:

282—13.30(272) Licenses—issue and expiration dates, corrections, duplicates, and fraud.

13.30(1) *Issue ~~date~~ and expiration dates on original license.* A license is valid only from and after the date of issuance. Licenses, authorizations, certificates, and statements of professional recognition will expire on the last day of the practitioner's birth month after the term of the license unless otherwise specified. If the expiration date is changed by rule, the change may be retroactive.

13.30(2) to **13.30(4)** No change.

ITEM 3. Amend rule 282—18.4(272) as follows:

282—18.4(272) General requirements for an administrator license.

18.4(1) No change.

18.4(2) *Specific requirements for an initial administrator license for applicants who have completed a teacher preparation program.* An initial administrator license valid for a minimum of one year with an expiration date of June 30 may be issued to an applicant who:

a. to *f.* No change.

18.4(3) and **18.4(4)** No change.

ITEM 4. Amend rule 282—23.2(272,321) as follows:

282—23.2(272,321) Validity. The behind-the-wheel driving instructor authorization shall be valid for one year from the date of issuance. The behind-the-wheel driving instructor authorization shall be valid only if the holder continues to be qualified under subrule 23.1(1).

ITEM 5. Amend rule 282—27.2(272) as follows:

282—27.2(272) Requirements for a professional service license.

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

a. to *e.* No change.

27.2(2) and **27.2(3)** No change.

ARC 3822C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to administration and accountability standards and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 12, "General Accreditation Standards," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.7(21) and 20 U.S.C. 7926.

Purpose and Summary

Pursuant to the Every Student Succeeds Act (ESSA), Section 8038, codified at 20 U.S.C. 7926, the State Board of Education proposes to amend rule 281—12.3(256) by adding new subrule 12.3(14) to require schools and school districts to adopt policies prohibiting the aiding and abetting of sexual abuse. In addition, the State Board proposes to amend subrule 12.8(1) by replacing paragraph "h" with a new paragraph "h" that names the summative assessment developed by the Iowa testing program within the University of Iowa college of education and administered by the Iowa testing program's designee as the statewide summative assessment of student progress administered by school districts for purposes of the core academic indicators.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the State Board no later than 4:30 p.m. on June 26, 2018. Comments should be directed to:

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

EDUCATION DEPARTMENT[281](cont'd)

Public Hearing

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

June 26, 2018	State Board Room, Second Floor
9 to 10 a.m.	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** subrule 12.3(14):

12.3(14) *Policy prohibiting the aiding and abetting of sexual abuse.*

a. General. The department and each public school district and area education agency shall adopt policies that prohibit any individual who is a school employee, contractor, or agent, or any state educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

b. Exception. The requirements of paragraph 12.3(14)*"a"* shall not apply if all of the following conditions are met.

(1) The information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations.

(2) The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct have investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law; or the school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of, the alleged misconduct; or the case or investigation remains open and there have been no charges filed against, or indictment of, the school employee, contractor, or agent within four years of the date on which the information was reported to a law enforcement agency.

ITEM 2. Rescind paragraph **12.8(1)"h"** and adopt the following **new** paragraph in lieu thereof:

h. Statewide summative assessment.

(1) For purposes of this chapter, the statewide summative assessment of student progress administered by school districts for purposes of the core academic indicators shall be the summative assessment developed by the Iowa testing program within the University of Iowa college of education

and administered by the Iowa testing program's designee. The department may require the Iowa testing program to enter into agreements with such designee to ensure the department is able to comply with Iowa Code chapter 256; this chapter; the requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95; the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; and any other applicable state or federal law.

(2) For the school year beginning July 1, 2018, and each succeeding school year, the statewide summative assessment referred in this paragraph shall meet all of the following requirements:

1. All students enrolled in school districts in grades 3 through 11 shall be administered an assessment in mathematics and English language arts, including reading and writing, during the last quarter of the school year, and all students enrolled in school districts in grades 5, 8, and 10 shall be administered an assessment in science during the last quarter of the school year.

2. The assessment, at a minimum, shall assess the core academic indicators identified in Iowa Code section 256.7(21)*"b"*; be aligned with the Iowa common core standards in both content and rigor; accurately describe student achievement and growth for purposes of the school, the school district, and state accountability systems; provide valid, reliable, and fair measures of student progress toward college or career readiness; and meet the summative assessment requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95.

3. The assessment shall be available for administration in both paper-and-pencil and computer-based formats and include assessments in mathematics, science, and English language arts, including reading and writing.

4. The assessment shall be peer-reviewed by an independent third-party evaluator to determine that the assessment is aligned with the Iowa core academic standards, provides a measurement of student growth and student proficiency, and meets the summative assessment requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95. The assessment developed by the Iowa testing service within the University of Iowa college of education shall make any necessary adjustments as determined by the peer review to meet the requirements of this paragraph.

5. The costs of complying with the requirement of this paragraph shall be borne by the Iowa testing program within the University of Iowa college of education.

ARC 3823C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

The State Board of Education hereby proposes to amend Chapter 15, "Use of Online Learning and Telecommunications for Instruction by Schools," 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 section 256.42 as amended by 2018 Iowa Acts, Senate File 2131.

Purpose and Summary

The proposed amendments allow distance education to be provided to students receiving independent private instruction, competent private instruction, or private instruction under Iowa Code chapter 299A, provide a fee structure for school districts, and address fiscal matters borne by the Department.

EDUCATION DEPARTMENT[281](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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the State Board no later than 4:30 p.m. on June 26, 2018. Comments should be directed to:

Nicole Proesch
Iowa Department of Education
Grimes State Office Building, Second Floor
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
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 26, 2018	State Board Room, Second Floor
10 to 11 a.m.	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 of Education 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:

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend rule 281—15.10(256) as follows:

281—15.10(256) Appropriate applications of ILO coursework. ILO courses are intended to help Iowa school districts expand learning opportunities by providing opportunities for individual students to take one or more courses offered "at a distance" using technologies such as the Internet and interactive videoconferencing. Participating school districts and accredited nonpublic schools may also enroll students in ILO courses if online learning is more suited to a specific student's circumstances. ILO may also provide distance education to a student receiving independent private instruction as defined in Iowa Code section 299A.1(2)*"b,"* competent private instruction under Iowa Code section 299A.2, or private instruction by a nonlicensed person under Iowa Code section 299A.3.

ITEM 2. Amend rule 281—15.12(256) as follows:

281—15.12(256) School and school district responsibilities. Each participating school district and accredited nonpublic school shall submit its online curricula, excluding coursework provided by ILO, to the department for review. Each participating school district and accredited nonpublic school shall include in its comprehensive school improvement plan submitted pursuant to Iowa Code section ~~256.7, subsection 21,~~ 256.7(21) a list and description of the online coursework offered by the school or school district, excluding coursework provided by ILO. Each participating school district and accredited nonpublic school is responsible for recording grades received for ILO coursework in a student's permanent record and for awarding graduation credit for ILO coursework. Each participating school district and accredited nonpublic school shall identify a site coordinator to serve as a student advocate and as a liaison between the initiative staff and teachers and the school district or accredited nonpublic school. Each participating school district and school shall pay the fees prescribed by subrule 15.13(2).

ITEM 3. Amend rule 281—15.13(256) as follows:

281—15.13(256) Department responsibilities.

15.13(1) *Course quality.* The department shall annually evaluate the quality of courses offered under ILO to ensure that coursework is rigorous and of high quality and is aligned with Iowa's core curriculum and core content requirements and standards as well as with national standards of quality for online courses issued by an internationally recognized association for elementary and secondary online learning. The department shall ensure that all ILO coursework is taught by a teacher who is appropriately licensed and endorsed for the educational level and content area being taught and who has completed an online-learning-for-Iowa-educators professional development course offered by an area education agency, a teacher preservice program, or comparable coursework.

15.13(2) *Fiscal matters.* The department shall establish fees payable by school districts, accredited nonpublic schools, and individuals providing instruction to students under Iowa Code chapter 299A as described in rule 281—15.10(256), for ILO coursework. Fees collected pursuant to this subrule are appropriated to the department to be used only for the purpose of administering ILO and shall be established so as not to exceed the cost of administering ILO. Providing professional development necessary to prepare teachers to participate in the initiative shall be considered a cost of ILO administration. Notwithstanding Iowa Code section 8.33, fees collected by the department that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose of expanding ILO coursework offered in subsequent fiscal years.

ITEM 4. Rescind rule 281—15.14(256) and adopt the following **new** rule in lieu thereof:

281—15.14(256) Responsibilities of individuals providing private instruction under Iowa Code chapter 299A. The individual providing instruction to a student under rule 281—15.10(256) shall pay the fees prescribed by subrule 15.13(2). The individual providing instruction to a student under rule 281—15.10(256) shall receive the student's score for completed ILO coursework.

ITEM 5. Adopt the following **new** rule 281—15.15(256):

281—15.15(256) Enrollment in an ILO course. Under ILO, a student must be enrolled in a participating school district or accredited nonpublic school or be receiving private instruction under Iowa Code chapter 299A as described in rule 281—15.10(256).

ARC 3824C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to community college education and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 21, "Community Colleges," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 260C.

Purpose and Summary

Items 1 and 2 propose amendments to align the Department's administrative rules to two policies established by the Higher Learning Commission, the regional accrediting body for postsecondary institutions. The first policy sets the required general education credits in career and technical education programs at 15 credits. The second policy allows for integrated, embedded, interdisciplinary models of general education in career and technical education programs. The amendments in Items 1 and 2 to paragraphs "d" and "e" of subrule 21.2(9) increase the general education credits in the associate of applied arts and associate of applied science award options from 12 credits to 15 credits and establish a framework for consistency in identifying and documenting general education learning requirements integrated into career and technical education programs.

Items 3 and 4 propose revisions to Chapter 21 to accommodate the establishment by community colleges of specialized programs of study, referred to as transfer majors, within general associate of arts and associate of science degree options. New rule 281—21.3(260C) in Item 3 and the amendment to paragraph 21.4(2)"a" in Item 4 will ensure consistency in the development and approval of transfer major programs.

Proposed new subrule 21.4(4) in Item 6 implements a recommendation of the Developmental Education Work Group, a Department-convened entity consisting of community college stakeholders tasked with developing strategies to achieve the Future Ready Iowa goal that 70 percent of Iowans have some form of postsecondary training by the year 2025. Accordingly, the strategies identified by the group will increase success in developmental education coursework and the likelihood of completing a postsecondary credential. Item 5 renumbers existing subrules to accommodate the addition of new subrule 21.4(4).

Fiscal Impact

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

Jobs Impact

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

EDUCATION DEPARTMENT[281](cont'd)

Waivers

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

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 State Board no later than 4:30 p.m. on June 26, 2018. Comments should be directed to:

Nicole Proesch
Iowa Department of Education
Grimes State Office Building, Second Floor
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
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 26, 2018	State Board Room, Second Floor
11 a.m. to 12 noon	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 of Education and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **21.2(9)"d"** as follows:

d. Associate of applied science (AAS). The degree is awarded upon completion of a state-approved program of study that is intended to prepare students for entry-level career and technical occupations. An associate of applied science degree shall consist of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied science degree program shall consist of a minimum of ~~12~~ 15 semester (~~18~~ 22.5 quarter) credit hours of general education and shall include at least one course from each of the following areas: communications, social science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be documented

through an integrated, embedded, and interdisciplinary model adopted by the chief academic officers of the 15 community colleges in consultation with the department. The technical core of the associate of applied science degree shall constitute a minimum of 50 percent of the course credits.

ITEM 2. Amend paragraph **21.2(9)"e"** as follows:

e. Associate of applied arts (AAA). The degree is awarded upon completion of a state-approved program of study that is primarily intended for career training in providing students with professional skills for employment in a specific field of work such as arts, humanities, or graphic design. An associate of applied arts degree shall consist of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied arts degree program shall consist of a minimum of ~~12~~ 15 semester (~~18~~ 22.5 quarter) credit hours of general education and shall include at least one course from each of the following: communications, social science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be documented through an integrated, embedded, and interdisciplinary model adopted by the chief academic officers of the 15 community colleges in consultation with the department. The technical core of the associate of applied arts degree shall constitute a minimum of 50 percent of the course credits.

ITEM 3. Adopt the following **new** rule 281—21.3(260C):

281—21.3(260C) Associate of arts and associate of science transfer major programs.

21.3(1) *General program.* Each community college shall offer a general college parallel program of study leading to an associate of arts award or an associate of science award, pursuant to subrules 21.2(9) and 21.4(2). These programs shall offer courses equivalent to the first two years of a baccalaureate program and shall not be discipline-specific.

21.3(2) *Transfer majors.* A community college may establish discipline-specific transfer major programs to improve student recruitment, advising, and success and enhance transferability of associate-level courses into aligned baccalaureate degree programs. The transfer major program shall consist of discipline-relevant credits from an approved discipline framework which satisfies the requirements of paragraph 21.3(2)*"b."* A community college shall ensure all students are appropriately advised regarding the availability, structure, purpose, and other pertinent information related to the transfer major program.

a. Degree option. A transfer major shall be embedded within an associate of arts or associate of science degree which meets the requirements of this chapter and any applicable statewide transfer agreement between the Iowa community colleges and public universities. Credits within the transfer major may be utilized to fulfill the general education requirements of an associate of arts or associate of science degree, as appropriate.

b. Discipline framework. Each approved transfer major program shall adhere to the appropriate adopted discipline framework to ensure transferability with the aligned baccalaureate program of study at one or more public universities in Iowa.

(1) A discipline framework shall consist of a minimum of 18 discipline-relevant semester credits (27 quarter credits) that align with a framework of elements based on accepted practices of an aligned baccalaureate degree program of study at a public university in Iowa.

(2) The courses within the discipline framework shall articulate with a regionally accredited public university in Iowa so that the course credits are recognized by the university as fulfilling equivalent course requirements in at least one aligned baccalaureate degree program of study.

(3) If the requirements of subparagraph 21.3(2)*"b"*(2) cannot be achieved with at least one regionally accredited public university in Iowa, a request may be submitted to the department for articulation with a regionally accredited public institution in a contiguous state or a group of no less than three regionally accredited private postsecondary institutions which confer baccalaureate degrees, are based in Iowa, and are approved under Iowa Code chapter 261 to operate in the state of Iowa.

(4) The discipline framework shall be developed and adopted by a statewide committee convened by the department.

c. Use of term. Consistent with department guidance, each community college shall exclusively use the term "transfer major" to record the completion of an approved transfer major program on the student's official transcript and other academic records, publish in the college catalog, and market the transfer major program to current and potential students and the general public. A community college shall not transcript, catalog, or market an associate of arts or associate of science program using other terms which contain or are synonymous with the term "major" or which imply a specialization within a subject area.

21.3(3) *Approval.* Per Iowa Code section 260C.14, each transfer major program shall be submitted to the department for approval utilizing the state system for program management. Approval shall be obtained prior to the enrollment of students in the transfer major program. The approval process shall not include components specific to career and technical education program approval, including advisory committees and labor market analysis.

21.3(4) *Reporting.* Each community college shall comply with data reporting requirements established by the department. The department shall produce and make available a report detailing enrollment and outcomes of participants in transfer major programs.

21.3(5) *Effective date.* The requirements of this rule shall take effect beginning with the 2019-2020 academic year. In implementing the provisions of this rule, the department shall consult key stakeholders including, but not limited to, representatives of Iowa's community colleges and public universities.

ITEM 4. Amend paragraph **21.4(2)"a"** as follows:

a. This program shall offer courses that are the equivalent of the first two years of a baccalaureate program and may also include: such courses as may be necessary to develop skills that are prerequisite to other courses and objectives; ~~and~~ specialized courses required to provide career options within the college parallel or transfer program; and approved transfer major programs meeting the requirements of 281—21.3(260C). College parallel or transfer programs are associate of arts and associate of science degree programs. General education courses in college parallel or transfer programs are required to be college transfer courses. A follow-up of students terminating shall be conducted to determine how well students have succeeded and which adjustments in the curriculum, if any, need to be made.

ITEM 5. Renumber subrules **21.4(4)** and **21.4(5)** as **21.4(5)** and **21.4(6)**.

ITEM 6. Adopt the following **new** subrule 21.4(4):

21.4(4) *Developmental education.* Students who enter community colleges underprepared for postsecondary coursework are provided opportunities to improve their cognitive and noncognitive skills via developmental education academic and student support services. In an effort to enhance these opportunities, while respecting the local authority of Iowa's community colleges, each college shall adopt proven developmental education strategies to identify and address the needs of students, shorten the time to completion, prepare students for academic success, and reduce the financial burden for students underprepared for postsecondary coursework. Such proven strategies include, but are not limited to, multiple measures of placement; accelerated and integrated strategies, such as co-requisite models; and support services that address students' cognitive and noncognitive needs. These reform efforts require collaboration among community colleges, school corporations, and education stakeholders to systemically expand proven strategies to prepare students for postsecondary success.

ARC 3826C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rule making related to management of hazardous materials and waste and providing an opportunity for public comment

The Environmental Protection Commission hereby proposes to amend Chapter 119, "Used Oil and Used Oil Filters"; rescind Chapter 123, "Regional Collection Centers and Mobile Unit Collection and Consolidation Centers," and adopt a new Chapter 123, "Regional Collection Centers and

Satellite Facilities"; rescind Chapter 144, "Household Hazardous Materials"; amend Chapter 211, "Financial Assistance for the Collection of Household Hazardous Materials and Hazardous Waste from Conditionally Exempt Small Quantity Generators"; and rescind Chapter 214, "Household Hazardous Materials Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455B.304(10), 455D.7(1), 455E.9(1) and 455F.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 455E and 455F.

Purpose and Summary

These proposed amendments are necessary to provide consistency between Chapters 119, 123 and 211 and Iowa Code chapters 455E and 455F. In addition, the proposed amendments will incorporate for consistency the United States Environmental Protection Agency's (US EPA) recent terminology change to 40 CFR 262.13, which addresses hazardous waste generator categories. Other amendments are proposed to update terminology and to provide clarification regarding regulatory requirements. Specifically, the proposed amendments:

- Amend Chapter 119 to remove references to Chapter 144, which is proposed for rescission herein;
- Rescind and replace Chapter 123 to eliminate the requirement for regional collection centers (RCCs) to obtain sanitary disposal project permits;
- Rescind Chapter 144 pursuant to recent changes to the Iowa Code that were enacted in 2016 Iowa Acts, Senate File 2181;
- Amend Chapter 211 to clarify and expand financial assistance opportunities to regional collection centers (RCCs) for both the collection and proper management of hazardous waste and to establish and expand RCCs and satellite facilities and services provided to citizens and very small quantity generator (VSQG) businesses; and
- Rescind Chapter 214 pursuant to recent changes to the Iowa Code that were enacted in 2016 Iowa Acts, Senate File 2181.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 27, 2018. Comments should be directed to:

Kathleen Hennings
Land Quality Bureau
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: kathleen.hennings@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held. Upon arrival, attendees should proceed to the fourth floor to check in at the Department reception desk and be directed to the appropriate hearing location.

June 27, 2018	Conference Room 4 West
1 to 3 p.m.	Wallace State Office Building
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind subrule **119.6(5)**.

ITEM 2. Rescind subrule **119.7(4)**.

ITEM 3. Rescind 567—Chapter 123 and adopt the following **new** chapter in lieu thereof:

CHAPTER 123
REGIONAL COLLECTION CENTERS AND SATELLITE FACILITIES

567—123.1(455F) Purpose. The purpose of this chapter is to implement operating license requirements for regional collection centers and satellite facilities which provide for the collection and proper disposal of household hazardous materials (HHMs) and hazardous waste from very small quantity generators (VSQGs).

567—123.2(455B,455D,455F) Definitions. For the purposes of this chapter, these terms shall have the following meanings:

"Department" means the Iowa department of natural resources.

"Hazardous waste" or *"HW"* means the same as defined in Iowa Code section 455B.411.

"Hazardous waste contractor" means a private company that provides proper management (e.g., disposal, recycling) of hazardous waste. "Hazardous waste contractor" does not include regional collection centers.

"Household hazardous material" or *"HHM"* means the same as defined in Iowa Code section 455F.1.

"Household hazardous waste" or *"HHW"* means an HHM as defined in Iowa Code section 455F.1 which has served its intended use and is designated for disposal.

"RCC mobile unit" or *"mobile unit"* means a truck or trailer owned and operated under the direction of a regional collection center that can be moved to different sites within a region. A mobile unit is used to perform collection events and to transport collected materials to an RCC for sorting and consolidation.

"Regional collection center" or *"RCC"* means the same as defined in Iowa Code section 455F.1.

"Satellite facility" means the same as defined in Iowa Code section 455F.1.

"Very small quantity generator" or *"VSQG"* means a generator that generates less than or equal to the following amounts in a calendar month:

1. 100 kilograms (220 lbs) of non-acute hazardous waste;
2. 1 kilogram (2.2 lbs) of acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e);
3. 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e).

567—123.3(455F) Regional collection center license and license renewal. A license or license renewal will be issued under the following conditions:

123.3(1) *License.*

a. An RCC shall not operate without a license issued by the department. RCCs in existence prior to January 14, 2019, will automatically be issued an operating license.

b. A satellite facility shall not be required to obtain a license.

123.3(2) *Compliance.* An RCC and satellite facility must be in compliance with current local, state and federal statutes and regulations regarding the management, storage, transportation and disposition of HHM, HHW and HW from VSQGs.

123.3(3) *Construction.* An RCC shall not be constructed without review of the site plan and written approval of the site plan by the department. The approved plans and specifications shall constitute a condition of the initial operating license.

123.3(4) *Inspection prior to commencing initial operation.* The department shall be notified before an RCC or satellite facility begins operations. No HHM or HW from VSQGs shall be accepted by the RCC or satellite facility until the facility has been inspected and approved by the department.

123.3(5) *Duration and renewal of license.* The initial license issued may be renewed for a period of five years. If the license applicant is a private agency under contract with a local government, the license shall not extend past the end date of the contract. An entity designated as an environmental management system pursuant to Iowa Code section 455J.7 may opt out of the license renewal requirement provided the entity is in compliance with 123.3(2) and there has been no change in the provisions of the current license. Any change in the provisions of the current license requires department notification as described in 123.3(7).

123.3(6) *Request and approval of initial license or license renewal.* A new RCC shall file a request for a license on a form provided by the department. An established RCC shall file a request for license renewal 45 calendar days prior to the expiration of the current license, via hard-copy request or electronically, on a form provided by the department. A renewal shall be issued within 30 business days if the facility is in compliance with Iowa Code chapters 455B, 455D and 455F and the conditions of the current license.

123.3(7) *License modification.* An RCC shall request to modify its license by notifying the department of changes to any provision of its license via hard-copy or electronic correspondence. An RCC shall notify the department within 30 calendar days of a planned change to the provisions of its license and within 7 calendar days of an unplanned change to the provisions of its license. Upon

approval of a request to modify an RCC license, the department will issue a license modification within 14 business days of approving the license modification request.

567—123.4(455F) Site, structure, storage, and staff qualifications. RCCs, satellite facilities and mobile units shall each meet the following criteria.

123.4(1) *Siting.* A site selected for an RCC, satellite facility or mobile unit shall meet the following criteria:

a. An RCC, satellite facility or mobile unit used for the collection of VSQG waste and HHMs shall be sited on public property or on private property if an agreement exists that guarantees public access. Documentation of the private property agreement for RCCs and satellite facilities shall be provided to the department upon request or upon application and renewal for license.

b. The site shall provide adequate secondary containment in case of a spill or other possible on-site contamination.

c. The site shall meet all applicable zoning requirements.

d. The site shall be adequately sized to accommodate all structures, units and activities that will take place on the site.

e. RCCs and satellite facilities shall each have adequate security to prevent unauthorized access. Adequate security may include, but is not limited to, a fence and locking gate.

f. All mobile units and the containers used to package collected materials shall comply with applicable Iowa department of transportation rules and guidelines. At each mobile unit site, the mobile unit shall rest on a pad of a chemical-resistant, impervious, smooth material that provides secondary containment in case of a spill. A temporary surface created by securing an impervious tarp to the unloading/receiving area will meet the requirements of an impervious surface. A plan for conducting mobile unit collection events must consider the possibility of inclement weather. The plan must ensure that collected HHM and VSQG hazardous waste have protection from the elements and must minimize the risk of environmental contamination.

123.4(2) *Structures.* RCC or satellite facility structures shall each meet the following criteria:

a. All structures shall be sized to adequately accommodate the collection, sorting, bulking and lab packing, packaging for disposal, and temporary storage of HHM and HW from VSQGs.

b. All permanent structures shall meet the requirements of applicable fire codes and building codes.

c. RCC structures and satellite facility structures shall each be designed to prevent run-on entering from adjacent areas.

d. All receiving areas shall have a storage capacity of at least one day's processing capacity.

e. All receiving, sorting, bulking, transfer and storage area surfaces shall be constructed of a chemical-resistant, impervious, smooth material so designed to be easily cleaned, nonreactive with the waste, and with proper drainage, in the form of sloped flooring, plastic-lined pits or concrete sumps, according to applicable codes. Areas used for the receiving, bulking, transferring, lab packing and storing of HHM, HHW and VSQG hazardous waste shall be provided with secondary containment and shall be protected from exposure to the weather.

123.4(3) *Storage.* All full containers of HHW and hazardous wastes from VSQGs must be stored in a building designed in accordance with Group H occupancy requirements and local, state and federal fire codes. It is required that HW or HHW accumulated for disposal not be accumulated on site for more than 180 days. Once the capacity limit of a collection site or time limit is reached, all waste collected shall be collected by a licensed hazardous waste contractor.

123.4(4) *Staff qualifications.* Prior to handling any HHM or HW, RCC and satellite facility staff shall each have received applicable training conducted by trainers who meet Occupational Safety and Health Administration (OSHA) instructor qualification standards. Training shall include but is not limited to the following:

a. OSHA 24-hour health and safety training as described in 29 CFR 1910.120.

b. Annual 8-hour refresher training as described in 29 CFR 1910.120.

c. Hazardous materials chemistry.

d. Personnel and site safety.
e. Proper lab packing techniques.
f. Proper transporting of hazardous materials.
g. When applicable, U.S. Department of Transportation hazardous materials training for the operation of a mobile unit used in the collection and transportation of HHM and HW from VSQGs.

567—123.5(455F) Operations plans and procedures.

123.5(1) RCCs and satellite facilities must each prepare and maintain on site a current plan of operations.

123.5(2) Operations plan. The operations plan shall include, at a minimum, the following information:
a. Schedule of operations, including hours of operation for RCCs or satellite facilities.
b. Site selection procedures for mobile unit collections.
c. Standard receiving procedures for HHM and VSQG HW.
d. Procedures for managing unknown materials.
e. Procedures for handling open or leaking containers.
f. Procedures for managing large quantities of wastes.
g. Recycling and reuse procedures for usable materials.
h. Disposal of nonhazardous waste.
i. Personal protection equipment (PPE).
j. Initial training requirements and continuing education of staff.
k. An emergency response plan, such as the facility's response to spills, fires or weather-related events.

567—123.6(455F) Closure notification. RCCs and satellite facilities shall each notify the department via hard-copy or electronic correspondence at least 60 calendar days prior to ceasing operations.

123.6(1) The notification shall include, at a minimum, the following information:
a. A description of how the RCC or satellite facility will notify the public within its service area that the RCC or satellite facility is closing and how HHM and HW from VSQGs should be managed after closure of the facility.
b. A description of how all HHM, HHW and HW from VSQGs will be removed from the RCC or satellite facility and properly managed within 60 calendar days of the RCC's or satellite facility's ceasing operations.
c. A description of how final waste disposal costs will be paid.

123.6(2) After removal of HHW and VSQG HW, a final inspection shall be conducted by department staff.

567—123.7(455F) Regional collection center reporting requirements. On a form supplied by the department, each RCC shall submit to the department a correctly completed RCC semiannual report. The report shall include, but not be limited to, the pounds of materials managed through a reuse program, by hazardous waste contractors, and by nonhazardous waste contractors. All hazardous waste contractor invoices shall be attached. Such invoices shall depict hazardous material types, net weight of hazardous materials, and associated collection and disposal costs charged by the hazardous waste contractor to the RCC. RCC semiannual reports shall be submitted by September 15 for the portion of the current calendar year January 1 through June 30, and by March 15 for the portion of the previous calendar year July 1 through December 31.

These rules are intended to implement Iowa Code chapter 455F.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 4. Rescind and reserve **567—Chapter 144**.

ITEM 5. Amend **567—Chapter 211** as follows:

CHAPTER 211
FINANCIAL ASSISTANCE FOR THE ~~COLLECTION~~ MANAGEMENT OF HOUSEHOLD HAZARDOUS MATERIALS AND HAZARDOUS WASTE FROM ~~CONDITIONALLY EXEMPT~~ VERY SMALL QUANTITY GENERATORS

567—211.1(455E,455F) Purpose. The purpose of this program is to reduce the amount of hazardous materials disposed of in Iowa's sanitary landfills, thereby protecting groundwater resources, the health and safety of Iowa citizens, and the environment.

The costs and accessibility of hazardous materials management can be improved by the establishment and maintenance of a system of regional collection centers (RCCs) and satellite facilities for the safe and proper ~~disposal~~ management of household hazardous materials and hazardous materials from ~~conditionally exempt~~ very small quantity generators ~~(CESQGs)~~ (VSQGs). Therefore, the department may provide financial assistance for costs associated with establishing or improving RCCs and satellite facilities, when such funding is available. The department may also provide financial assistance for ongoing collection and disposal ~~costs for RCCs and MUCCCs whether public agencies or~~ activities which result in eligible ~~private agencies operate them~~ pounds, when such funding is available.

567—211.2(455E,455F) Definitions. ~~The definitions set out in Iowa Code section 455B.301 shall be considered to be incorporated verbatim in these rules.~~ For the purposes of this chapter, these terms shall have the following meanings:

"Applicant for ~~an RCC establishment grant~~ RCC or satellite facility financial assistance" means ~~a~~ an RCC or satellite facility operated by a private agency, local government or a public agency representing local governments pursuant to Iowa Code chapter 28E.

~~*"Conditionally exempt small quantity generator"* or *"CESQG"* means a generator that in a calendar month generates no more than 100 kilograms of hazardous waste in that month and is further defined by 40 CFR 261.5.~~

"Department" means the Iowa department of natural resources.

~~*"Eligible private agency"* means a privately owned landfill, transfer station or citizen convenience center which acts as an RCC or MUCCC as part of an approved comprehensive plan pursuant to Iowa Code section 455B.306. The facility must either include hazardous waste collection activities in its SDP permit or have an RCC or MUCCC permit in accordance with the requirements of 567—Chapter 123.~~

"Eligible pounds" means household hazardous waste or hazardous waste from VSQGs which is disposed of or recycled by a licensed hazardous waste contractor. VSQG hazardous waste for which an RCC is required to charge a fee under Iowa Code section 455F.8A is considered eligible pounds if there is a corresponding disposal charge from a hazardous waste contractor. Eligible pounds means net weight as shown on the final disposition documents. A manifest shows an estimated weight and cannot be used to determine eligible pounds. VSQG hazardous waste or household hazardous waste which has no disposal cost, or for which RCCs receive compensation or charge a fee, is not eligible pounds. Materials such as cathode ray tubes, electronics, and used oil which are not destined for final disposal, but are instead recycled for reuse of components, are not eligible pounds.

"Financial assistance" means monetary assistance including grants, cash payments, or support by other financial means.

~~*"Hazardous materials disposal costs"* means costs incurred from a hazardous waste contractor for disposal of household hazardous materials and hazardous waste from conditionally exempt small quantity generators. Costs may include, but are not limited to, transportation to the hazardous waste contractor, incineration, fuel blending, hazardous waste landfilling, and waste profile testing. "Hazardous materials disposal costs" does not include transportation from a satellite to a main RCC facility, staff time, equipment, overhead costs, or costs to dispose of waste that is not HHM or a hazardous material.~~

"Hazardous waste" or *"HW"* means the same as defined in Iowa Code section 455B.411.

"Hazardous waste contractor" means a private company that provides management (e.g., recycling, disposal) of household hazardous waste or VSQG hazardous waste in compliance with federal regulations. "Hazardous waste contractor" does not include regional collection centers.

"Household hazardous materials" or *"HHM"* means the same as defined in Iowa Code ~~subsection 455F.1(4)~~ section 455F.1.

"Household hazardous waste" or *"HHW"* means an HHM as defined in Iowa Code section 455F.1 which has served its intended use and is designated for disposal.

"Indirect costs" means costs that are not identifiable with a specific product, function or activity.

~~*"Mobile unit collection and consolidation center"* or *"MUCCC"* means a government agency or private agency under contract with a government agency as part of a solid waste comprehensive plan that provides HHM collection events at temporary sites. Collection events are held a minimum of 16 hours per month in each county served by the MUCCC. MUCCCs do not provide public access to a fixed facility. Materials collected are consolidated and stored for removal by a hazardous waste contractor. MUCCCs do not include RCCs that utilize a mobile collection unit along with access to a permanent facility.~~

"Overhead costs" means expenses not chargeable to a particular part of the work or product including, but not limited to, utilities and insurance.

"RCC mobile unit" means a truck or trailer ~~belonging to~~ owned and operated under the direction of a regional collection center that can be moved to different sites within a region. A mobile unit is used to perform collection events and to transport collected materials to the ~~fixed~~ RCC for sorting and consolidation.

"Regional collection center" or *"RCC"* means ~~a secured facility at which collection, sorting, and packaging of household hazardous materials and hazardous materials from CESQGs are accomplished prior to transportation of these wastes to the final disposal site. RCCs have regular hours during which the public may drop off hazardous materials. An RCC may be a government agency or a private agency under contract with a government agency as part of a solid waste comprehensive plan. RCCs are referred to as temporary collection sites in Iowa Code subsection 455F.8A(1)~~ the same as defined in Iowa Code section 455F.1.

"Satellite facility" means ~~a secured facility at which collection and storage of household hazardous materials and hazardous materials from CESQGs are accomplished prior to transportation of these wastes to an RCC. A satellite facility has a written contract with an RCC for the removal of collected waste. A satellite facility may be operated by a government agency or a private agency under contract with a government agency as part of a solid waste comprehensive plan. A satellite facility is available for public drop off of hazardous materials either during regularly scheduled hours or by appointment~~ the same as defined in Iowa Code section 455F.1.

~~*"Staffing costs"* means salaries and benefits related to payment of personnel.~~

"Very small quantity generator" or *"VSQG"* means a generator that generates less than or equal to the following amounts in a calendar month:

1. 100 kilograms (220 lbs) of non-acute hazardous waste;
2. 1 kilogram (2.2 lbs) of acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e);
3. 100 kilograms (220 lbs) of any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e).

567—211.3(455E,455F) Role of the department. The department is responsible for the administration of ~~funds for projects~~ financial assistance sponsored under this chapter. The department shall ensure that funds disbursed meet guidelines established ~~by the groundwater protection Act (~~ in Iowa Code ~~chapter~~ chapters 455E~~) and Iowa Code section 455B.484~~ and 455F. An applicant for ~~an RCC establishment grant~~ financial assistance under this chapter may submit any eligible project as defined in the application provided by the department. The department shall determine which projects, if any, will receive funding after review of all applications, subject to available funding.

567—211.4(455E,455F) Funding sources. The department will use funds appropriated by Iowa Code ~~section~~ sections 455E.11(2)*"a"*(2)(d) and 455E.11(2)*"c"* to achieve the purpose of this chapter. The department shall ensure that moneys appropriated meet both federal and state guidelines pertaining to the use of the moneys.

567—211.5(455E,455F) Eligible costs. ~~An applicant for an RCC establishment grant~~ Applicants may request ~~monetary~~ financial assistance for ~~the purpose of project development and implementation that includes funds for the following expense categories.~~ eligible expenses including, but not limited to, the following:

~~1. Materials and labor for construction, and the purchase cost of structures or mobile units, or both, to be used as an RCC or satellite facility, including but not limited to site excavation for the structure and modifications to control runoff.~~

~~2. A one-year education program for households and CESQGs within the RCC service area. Eligible education expenses may include but are not limited to:~~

~~● Supplies, including paper and postage.~~

~~● The purchase of books, resource materials, slide shows, video materials, and other media for education of the local population or donation to local libraries or schools.~~

~~● Fees for public service announcements.~~

~~3. Equipment relating directly to the RCC or satellite operation.~~

~~4. First-year staffing costs.~~

~~5. Site and building design fees.~~

211.5(1) Materials and labor for construction and the purchase cost of structures or RCC mobile units to be used in the operation of an RCC or satellite facility, including but not limited to site excavation for the structure and modifications to control runoff.

211.5(2) Education programs for households and VSQGs within the RCC service area. Eligible education expenses may include but are not limited to:

a. Public education and awareness materials and supplies.

b. Fees for public service announcements.

211.5(3) Equipment relating directly to the RCC or satellite facility operation.

567—211.6(455E,455F) Ineligible costs. Applicants for RCC ~~establishment grants~~ financial assistance cannot request monetary assistance for the following costs:

1. Taxes.
2. Vehicle registration.
3. Indirect or overhead costs.
4. Legal costs.
5. Contingency funds.
6. Land acquisition.
7. Disposal of hazardous materials.
8. Office equipment.
9. Staffing costs.
10. Site and building design fees.

567—211.7(455E,455F) ~~Criteria for the selection of an RCC establishment grant~~ RCC and satellite facility financial assistance.

211.7(1) An applicant for ~~an~~ RCC ~~establishment grant~~ and satellite financial assistance shall submit to the department a completed application ~~and a comment~~ on a form provided by the department. ~~The comment form shall be completed by the agency responsible for the submission of a solid waste comprehensive plan for the area in which the RCC or satellite facility will be established.~~

211.7(2) The department shall coordinate the evaluation of proposals~~, and applicants~~. Applications will be ~~awarded financial assistance~~ evaluated based on selection criteria contained in the application form. Prior to receiving financial assistance from the department, ~~applicants~~ an RCC must ~~either~~ obtain a

regional collection center ~~permit, amend the SDP permit of the host~~ license. A satellite facility ~~to include regional collection center activities, or~~ shall provide documentation of a contractual arrangement with a ~~permitted~~ licensed RCC for removal of the waste to be collected.

211.7(3) ~~Applicants shall submit a completed application on a form provided by the department and three photocopies, and shall address criteria in the order presented in the application and guidelines. An application that fails to address all of the criteria may not receive further consideration.~~ The applicant must be in compliance with applicable federal and state statutes and regulations.

567—211.8(455E,455F) Grant denial. An application may be denied for the following reasons, including but not limited to:

1. The applicant does not meet eligibility requirements pursuant to the provisions of this chapter.
2. The applicant does not provide sufficient information requested in the application proposal pursuant to this chapter.
3. The project goals or scope is not consistent with this chapter.
4. Funds are insufficient to award financial assistance to all qualified applicants.
5. The applicant has not met contractual obligations of previous grant awards.
6. The department received the application after the deadline stated in the application and guidelines.
7. The applicant is found to be out of compliance with applicable federal or state statutes or regulations.

567—211.9(455E,455F) RCC collection and ~~MUCCC household hazardous material~~ disposal support funding.

211.9(1) All RCCs ~~and MUCCCs, whether they~~ are ~~operated by a public agency or an~~ eligible ~~private agency, may receive~~ to receive funding support, when available, from the department to ~~offset the cost associated with proper disposal of~~ properly manage eligible pounds of VSQG hazardous waste and household hazardous waste. To receive funding, an RCC must be in compliance with applicable federal and state statutes and regulations. The source for this funding is described in Iowa Code section 455E.11(2)*"a"*(2)(d) and (e).

211.9(2) To be eligible to receive support and disposal-funding assistance, an RCC ~~or MUCCC~~ must:

a. Have household hazardous ~~materials~~ waste and VSQG hazardous waste removed by a licensed hazardous waste contractor.

b. ~~Complete~~ Correctly complete the hazardous materials collection semiannual report on a form supplied by the department.

c. Attach the ~~hazardous waste contractor invoices depicting hazardous material types, net weight of hazardous materials, and associated management fees charged by the hazardous waste contractor.~~ following documentation:

(1) Hazardous waste contractor invoices depicting cost and hazardous waste types.

(2) The net weight calculations of household hazardous waste and VSQG hazardous waste obtained by subtracting container weight from final disposal weight, not the manifest weight.

(3) Documentation that all household hazardous waste and VSQG hazardous waste was disposed of by a licensed hazardous waste contractor.

(4) Documentation of materials shipped using final disposal receipts.

d. Submit regional collection center semiannual reports by September ~~1~~ 15 for the portion of the ~~fiscal~~ current calendar year January 1 through June 30, and by March ~~1~~ 15 for the portion of the ~~fiscal~~ previous calendar year July 1 through December 31. Reports submitted after the due date without prior approval by the department are not eligible for ~~reimbursement~~ funding.

211.9(3) ~~The fall payments~~ Fall collection and disposal funding will be based on the regional collection center semiannual report due September ~~1~~ 15 and on available funding. An RCC ~~or MUCCC~~ will receive a percentage of the available funding in an amount proportional to the amount of ~~HHM~~ eligible pounds the RCC ~~or MUCCC~~ recycled or disposed of through a hazardous waste contractor, as reported on the ~~hazardous materials~~ regional collection center semiannual report form, compared

to the total amount of ~~HHM~~ eligible pounds recycled or disposed of by all RCCs ~~and MUCCCs. The fall payment shall not exceed total disposal costs for the reporting period~~ as reported on the regional collection center semiannual report form.

~~The spring payments~~ Spring collection and disposal funding will be based on the total eligible pounds reported for the calendar year and on available funding. An RCC ~~or MUCCC~~ will receive a percentage of the available funding for the calendar year minus the amount received for the fall payment, in an amount proportional to the amount of ~~HHM~~ eligible pounds the RCC ~~or MUCCC~~ recycled or disposed of through a hazardous waste contractor, as reported on the ~~hazardous materials~~ regional collection center semiannual report form for the calendar year, compared to the total amount of ~~HHM~~ eligible pounds recycled or disposed of by all RCCs ~~and MUCCCs. The spring and fall payments combined shall not exceed an RCC's or MUCCC's total disposal costs for the calendar year~~ as reported on the regional collection center semiannual report form.

These rules are intended to implement Iowa Code ~~Supplement section~~ sections 455F.8A and ~~Iowa Code section~~ 455F.8B.

ITEM 6. Rescind and reserve **567—Chapter 214**.

ARC 3818C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to tuberculosis (TB) screening and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to rescind Chapter 59, "Tuberculosis (TB) Screening," Iowa Administrative Code, and to adopt a new Chapter 59 with the same title.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104(5), 135B.7 and 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 135B.7 and 135C.14.

Purpose and Summary

Following the adoption of the Department's original tuberculosis screening rules in 2013, health care facilities, hospitals and employees sought clarification regarding the applicability of the rules under a variety of circumstances, such as transfers of health care workers between facilities, testing time frames for "two-step TST" and whether health care students, such as nursing students, are included in the definition of "health care worker." This rule making proposes to rescind Chapter 59 and adopt a new Chapter 59 that incorporates several suggestions from the Department's stakeholders, clarifies the baseline TB screening process and what the TB risk assessment shall include, and clarifies and expands the definitions of "two-step tuberculin skin test," "health care worker," and "transfer" as that term relates to health care workers changing employment between health care facilities or hospitals.

The State Hospital Licensing Board reviewed this amendment at its April 6, 2018, meeting.

The proposed amendment was reviewed by the State Board of Health at its May 9, 2018, meeting.

Fiscal Impact

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

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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 26, 2018. Comments should be directed to:

David Werning
Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0083
Fax: 515.242.6863
Email: david.werning@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 action is proposed:

Rescind 481—Chapter 59 and adopt the following **new** chapter in lieu thereof:

CHAPTER 59
TUBERCULOSIS (TB) SCREENING

481—59.1(135B,135C) Purpose. The intent of this chapter is to outline requirements and procedures to conduct tuberculosis screening for health care workers in health care facilities and hospitals and for residents of health care facilities regulated by the department.

481—59.2(135B,135C) Definitions. For purposes of this chapter, the following definitions apply:

"Bacille Calmette-Guérin vaccination" or *"BCG vaccination"* means a vaccine for TB. BCG vaccination is used in many countries with a high prevalence of TB to prevent childhood tuberculosis meningitis and miliary disease. BCG vaccination is not generally recommended for use in the United States because of the low risk of infection with *Mycobacterium tuberculosis*, the variable effectiveness

of the vaccine against adult pulmonary TB, and the vaccine's potential interference with tuberculin skin test reactivity.

"Baseline TB screening" means the screening of health care workers (HCWs) of health care facilities or hospitals at the beginning of employment in a facility or hospital and of residents of health care facilities upon admission to a facility for latent tuberculosis infection (LTBI) and TB disease. Baseline TB screening includes a symptom screen for all HCWs and residents, and two-step tuberculin skin test (two-step TST) or single interferon-gamma release assay (IGRA) for *M. tuberculosis* for those persons with previous negative test results for *M. tuberculosis* infection.

"Baseline TST" or *"baseline IGRA"* means the two-step TST or IGRA, respectively, which is administered at the beginning of employment to newly hired HCWs or upon admission of residents to health care facilities.

"Boosting" means a phenomenon in which a person has a negative TST (i.e., false-negative) result years after infection with *M. tuberculosis* and then a positive subsequent TST result. The positive TST result is caused by a boosted immune response of previous sensitivity rather than by a new infection (false-positive TST conversion). Two-step testing reduces the likelihood of mistaking a boosted reaction for a new infection.

"Department" means the department of inspections and appeals.

"Employment" or *"employed"* means to be hired or retained for paid or unpaid work in a facility or hospital.

"Extrapulmonary TB" means TB disease in any part of the body other than the lungs (e.g., kidney, spine, or lymph nodes).

"Health care facility" or *"facility"* means a health care facility as defined in Iowa Code section 135C.1 or a long-term care service of a hospital as defined in rule 481—51.38(135B).

"Health care worker" or *"HCW"* means any paid or unpaid person (including health care students) working in a health care facility or hospital, including any person who is paid either by the health care facility or hospital or paid by any other entity (i.e., temporary agency, private duty, Medicaid/Medicare or independent contractors), or any volunteer who volunteers in a health care facility or hospital on a consistent and regularly scheduled basis for five or more hours per week. Specifically excluded from the definition of "health care worker" are individuals such as visitors, building contractors, repair workers or others who are in the facility or hospital for a very limited purpose and are not in the facility or hospital on a regular basis.

"Hospital" means a hospital as defined in Iowa Code section 135B.1.

"Interferon-gamma release assay" or *"IGRA"* means a whole-blood test that can aid in diagnosing *M. tuberculosis* infection.

"Laryngeal TB" means a form of TB disease that involves the larynx and may be highly infectious.

"Latent TB infection" or *"LTBI"* means infection with *M. tuberculosis* without symptoms or signs of disease having manifested.

"Mantoux method" means a skin test performed by intradermally injecting 0.1 mL of purified protein derivative (PPD) tuberculin solution into the volar or dorsal surface of the forearm.

"Patient" means a person admitted to a hospital.

"Pulmonary TB" means TB disease that occurs in the lung parenchyma, usually producing a cough that lasts greater than three weeks. Pulmonary TB is usually infectious.

"Purified protein derivative tuberculin" or *"PPD tuberculin"* means a material used in diagnostic tests for detecting infection with *M. tuberculosis*.

"Resident" means a person admitted to a health care facility or a long-term care service of a hospital as defined in rule 481—51.38(135B). For purposes of this chapter, "resident" does not include a patient admitted to a hospital.

"Risk classification" means the category that the infection control team, or designated other staff, determines is appropriate for the facility or hospital as a result of the TB risk assessment.

"Serial TB screening" means TB screening performed at regular intervals following baseline TB screening. Serial TB screening, also called annual or ongoing TB testing, consists of two components:

(1) assessing for current symptoms of active TB disease, and (2) testing for the presence of infection with *M. tuberculosis* by administering either a TST or single IGRA.

"Symptom screen" means a procedure used during a clinical evaluation in which persons are asked if they have experienced any departure from normal in function, appearance, or sensation related to TB disease (e.g., cough).

"TB patient" means a person who had undiagnosed infectious pulmonary or laryngeal TB while in a health care facility or hospital during the preceding year. "TB patient" does not include persons with LTBI (treated or untreated), extrapulmonary TB disease, pulmonary TB, or laryngeal TB that have met criteria for noninfectiousness.

"TB risk assessment" means an initial and ongoing annual evaluation of the risk for transmission of *M. tuberculosis* in a particular health care setting.

"TB screening" means an administrative control measure in which evaluation for LTBI and TB disease is performed through baseline and serial screening of HCWs in hospitals and health care facilities and residents of health care facilities.

"Transfer" means an HCW changes employment from one health care facility or hospital to another health care facility or hospital where the time frame between employment does not exceed 90 days.

"Treatment for LTBI" means treatment that prevents the progression of *M. tuberculosis* infection into TB disease.

"Tuberculin skin test" or *"TST"* means a diagnostic aid for finding *M. tuberculosis* infection. The Mantoux method is the recommended method to be used for TST.

"Tuberculosis" or *"TB"* means the namesake member organism of *M. tuberculosis* complex and the most common causative infectious agent of TB disease in humans. In certain instances, the species name refers to the entire *M. tuberculosis* complex, which includes *M. bovis*, *M. african*, *M. microti*, *canetti*, *M. caprae*, and *M. pinnipedii*.

"Tuberculosis disease" or *"TB disease"* means a condition caused by infection with a member of the *M. tuberculosis* complex that has progressed to causing clinical (manifesting signs or symptoms) or subclinical (early stage of disease in which signs or symptoms are not present, but other indications of disease activity are present) illness.

"Two-step tuberculin skin test" or *"two-step TST"* means the procedure used for the baseline skin testing of persons who may receive serial TSTs.

481—59.3(135B,135C) TB risk assessment.

59.3(1) Annually, a health care facility or hospital shall conduct a TB risk assessment to evaluate the risk for transmission of *M. tuberculosis*, regardless of whether a person with suspected or confirmed TB disease is expected to be encountered in the facility or hospital. The TB risk assessment shall be utilized to determine the types of administrative, environmental, and respiratory protection controls needed and serves as an ongoing evaluation tool of the quality of TB infection control and for the identification of needed improvements in infection control measures.

59.3(2) The TB risk assessment shall include the number of persons with infectious TB encountered in the facility or hospital that resulted in the facility's or hospital's conducting a contact investigation of exposed HCWs or patients during the previous 12 months.

59.3(3) TB cases include persons who had undiagnosed infectious pulmonary or laryngeal TB while in the facility or hospital during the preceding year. This does not include persons with LTBI (treated or untreated), persons with extrapulmonary TB disease, or persons with pulmonary and laryngeal TB that have met criteria for noninfectiousness.

481—59.4(135B,135C) Health care facility or hospital risk classification. The infection control team or designated staff in a health care facility or hospital is responsible for determining the type of risk classification. The facility's or hospital's risk classification is used to determine frequency of serial TB screening. The facility or hospital risk classification may change due to an increase or decrease in the number of TB cases during the preceding year. The following criteria are consistent with those of the Centers for Disease Control and Prevention (CDC), TB Elimination Division, as outlined in the MMWR

December 30, 2005/Vol.54/No.RR-17, "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005."

59.4(1) *Types of risk classifications.*

a. "Low risk" means that a facility or hospital is one in which persons with active TB disease are not expected to be encountered and in which exposure to TB is unlikely.

b. "Medium risk" means that a facility or hospital is one in which health care workers will or might be exposed to persons with active TB disease or to clinical specimens that might contain *M. tuberculosis*.

c. "Potential ongoing transmission" means that a facility or hospital is one in which there is evidence of person-to-person transmission of *M. tuberculosis*. This classification is a temporary classification. If it is determined that this classification applies to a facility or hospital, the facility or hospital shall consult with the department of public health's TB control program.

59.4(2) *Classification criteria—low risk.*

a. Inpatient settings with 200 beds or more. If a facility or hospital has fewer than six TB patients for the preceding year, the facility or hospital shall be classified as low risk.

b. Inpatient settings with fewer than 200 beds. If a facility or hospital has fewer than three TB patients for the preceding year, the facility or hospital shall be classified as low risk.

59.4(3) *Classification criteria—medium risk.*

a. Inpatient settings with 200 beds or more. If a facility or hospital has six or more TB patients for the preceding year, the facility or hospital shall be classified as medium risk.

b. Inpatient settings with fewer than 200 beds. If a facility or hospital has three or more TB patients for the preceding year, the facility or hospital shall be classified as medium risk.

59.4(4) *Classification criteria—potential ongoing transmission.* If evidence of ongoing *M. tuberculosis* transmission exists at a facility or hospital, the facility or hospital shall be classified as potential ongoing transmission, regardless of the facility's or hospital's previous classification.

481—59.5(135B,135C) Baseline TB screening procedures for health care facilities and hospitals.

59.5(1) All HCWs shall receive baseline TB screening upon employment. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) testing using the two-step TST procedure or a single IGRA to screen for infection with *M. tuberculosis*. If the first-step TST result is negative, the second stage of the two-step TST is recommended one to three weeks after the first TST result was read. Administration of the second stage of the two-step TST shall not exceed 12 months after the first TST result was read. If initiation of the second stage of the two-step TST is greater than 12 months from when the first TST result was read, the two-step procedure must be restarted. If the first-step TST result is positive, it is not necessary to perform the second stage of the two-step TST.

59.5(2) An HCW may begin working with patients or residents after a negative TB symptom screen (i.e., no symptoms of active TB disease) and a negative TST (i.e., first step) or negative IGRA. The second TST may be performed after the HCW starts working with patients or residents.

59.5(3) An HCW with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless signs or symptoms of TB disease develop or unless a repeat radiograph is recommended by a clinician. Treatment for LTBI should be considered in accordance with CDC guidelines.

59.5(4) An HCW with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, does not need another chest radiograph at the time of hire.

59.5(5) TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for HCWs with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. A TB symptom screen and documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result. All other HCWs should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

59.5(6) Previous BCG vaccination is not a contraindication to having an IGRA, a TST or a two-step skin testing administered. HCWs with previous BCG vaccination should receive baseline and serial testing in the same manner as those without BCG vaccination. Evaluation of TST reactions in persons BCG-vaccinated should be interpreted using the same criteria for those not BCG-vaccinated. An HCW's history of BCG vaccination should be disregarded when administering and interpreting TST results. Prior BCG vaccination does not cause a false-positive IGRA test result.

481—59.6(135B,135C) Serial TB screening procedures for health care facilities and hospitals.

59.6(1) *Health care facilities or hospitals classified as low risk.* After establishing baseline TB screening of HCWs, serial TB screening of HCWs is not necessary for health care facilities or hospitals classified as low risk.

59.6(2) *Health care facilities or hospitals classified as medium risk.*

a. After establishing baseline TB screening, HCWs in health care facilities or hospitals classified as medium risk shall receive serial TB screening annually. However, an HCW with a previous positive TB test result shall only receive annual TB symptom screening in accordance with 59.5(5).

b. An HCW with a baseline positive or new positive test result for *M. tuberculosis* infection or documentation of previous treatment for LTBI or TB disease shall receive one chest radiograph result to exclude TB disease. Instead of participating in serial testing, HCWs should receive a symptom screen annually. This screen should be accomplished by educating HCWs about symptoms of TB disease and instructing HCWs to report any such symptoms immediately to the occupational health unit. Treatment for LTBI should be considered in accordance with CDC guidelines.

59.6(3) *Health care facilities or hospitals classified as potential ongoing transmission.* HCWs in facilities or hospitals classified as potential ongoing transmission shall receive serial TB screening every eight to ten weeks until lapses in infection control have been corrected and no additional evidence of ongoing transmission is apparent. However, an HCW with a previous positive TB test result shall only receive TB symptom screening in accordance with 59.5(5). The potential ongoing transmission classification should be used only as a temporary classification. This classification warrants immediate investigation and corrective steps. After a determination that ongoing transmission has ceased, the setting shall be reclassified as medium risk for a minimum of one year.

481—59.7(135B,135C) Screening of HCWs who transfer to other health care facilities or hospitals.

59.7(1) *HCWs transferring from a low-risk health care facility or hospital to another low-risk health care facility or hospital.* HCWs with documentation of baseline TB screening who are transferring from a low-risk health care facility or hospital to another low-risk health care facility or hospital do not need to repeat baseline TB screening if the time frame between employment from one facility or hospital to another does not exceed 90 days. If the time frame between employment from one facility or hospital to another exceeds 90 days, baseline TB screening shall be restarted for an HCW with a previous negative test result and a TB symptom screen shall be performed for an HCW with a previous positive TB test result in accordance with 59.5(5).

59.7(2) *HCWs transferring from a low-risk health care facility or hospital to a medium-risk health care facility or hospital.* HCWs with documentation of baseline TB screening who are transferring from a low-risk health care facility or hospital to a medium-risk health care facility or hospital do not need to repeat baseline TB screening if the time frame between employment from one facility or hospital to another does not exceed 90 days. If the time frame between employment from one facility or hospital to another exceeds 90 days, baseline TB screening shall be restarted for an HCW with a previous negative test result and a TB symptom screen shall be performed for an HCW with a previous positive TB test result in accordance with 59.5(5).

59.7(3) *HCWs transferring from a low- or medium-risk health care facility or hospital to a health care facility or hospital classified as potential ongoing transmission.* HCWs with documentation of baseline TB screening who are transferring to a potential ongoing risk health care facility or hospital do not need to repeat baseline TB screening if the time frame between employment from one facility to another does not exceed 90 days. If the time frame between employment from one facility or hospital to

another exceeds 90 days, baseline TB screening shall be restarted for an HCW with a previous negative test result and a TB symptom screen shall be performed for an HCW with a previous positive TB test result in accordance with 59.5(5).

59.7(4) *HCWs transferring from a medium-risk health care facility or hospital to a low-risk health care facility or hospital.*

a. An HCW who is transferring from a medium-risk health care facility or hospital to a low-risk health care facility or hospital and whose previous TB test result was negative shall receive a symptom screen and a single TST or IGRA upon employment if the time frame between employment from one facility to another does not exceed 90 days. If the time frame between employment from one facility or hospital to another exceeds 90 days, baseline TB screening shall be restarted.

b. An HCW who is transferring from a medium-risk health care facility or hospital to a low-risk health care facility or hospital and whose previous TB test result was positive shall receive a symptom screen upon employment in accordance with 59.5(5).

59.7(5) *HCWs transferring from a health care facility or hospital classified as potential ongoing transmission to a low- or medium-risk health care facility or hospital.*

a. An HCW who is transferring from a health care facility or hospital classified as potential ongoing transmission to a low- or medium-risk health care facility or hospital and whose previous TB test result was negative shall receive a symptom screen and a single TST or IGRA upon employment if the time frame between employment from one facility to another does not exceed 90 days. If the time frame between employment from one facility or hospital to another exceeds 90 days, baseline TB screening shall be restarted.

b. An HCW who is transferring from a health care facility or hospital classified as potential ongoing transmission to a low- or medium-risk health care facility or hospital and whose previous TB test result was positive shall receive a symptom screen upon employment in accordance with 59.5(5).

481—59.8(135B,135C) Baseline TB screening procedures for residents of health care facilities.

59.8(1) Baseline TB screening is a formal procedure to evaluate residents for LTBI and TB disease. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease, and (2) using the two-step TST procedure or a single IGRA to screen for infection with *M. tuberculosis*. If the first-step TST result is negative, the second stage of the two-step TST is recommended one to three weeks after the first TST result was read. Administration of the second stage of the two-step TST shall not exceed 12 months after the first TST result was read. If the second stage of the two-step TST is greater than 12 months from when the first TST result was read, the two-step procedure must be restarted. If the first-step TST result is positive, it is not necessary to perform the second stage of the two-step TST.

59.8(2) All residents shall be assessed for current symptoms of active TB disease upon admission. Within 72 hours of a resident's admission, baseline TB screening for infection shall be initiated unless baseline TB screening occurred within 90 days prior to the resident's admission.

59.8(3) A resident with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless signs or symptoms of TB disease develop or unless a repeat radiograph is recommended by a clinician.

59.8(4) Residents with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, do not need another chest radiograph at the time of admission.

59.8(5) TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for residents with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., IFN-g). All other residents should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

481—59.9(135B,135C) Serial TB screening procedures for residents of health care facilities. After baseline TB screening is accomplished, serial TB screening of residents is not recommended.

481—59.10(135B,135C) Performance of screening and testing. Any nurse licensed in Iowa and properly trained to screen for TB and perform TB testing may screen for TB and perform TB testing.

These rules are intended to implement Iowa Code sections 135B.7 and 135C.14.

ARC 3828C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

The Natural Resource Commission hereby proposes to amend Chapter 47, "Snowmobiles," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 321G.2(1)"e," 321G.7(2) and 455A.5(6).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321G.2(1)"e," 321G.7 and 455A.5(6).

Purpose and Summary

Iowa Code section 321G.7(2) requires that at least 70 percent of Iowa's snowmobile registration funds be used on grants, subgrants, contracts, or cost-share programs in support of Iowa's snowmobile programs. These funds are available for political subdivisions and incorporated private organizations. Prior to 2017, only 50 percent of registration funds were required to be used in such a manner, but the amount was increased by the 87th General Assembly in 2017 Iowa Acts, Senate File 472, signed by Governor Branstad on April 12, 2017. This enlargement necessarily increases the Iowa Department of Natural Resources' (Department) workload associated with implementing such grants, contracts, and cost-share programs. After the passage of the bill, the Department and the Iowa State Snowmobile Association (ISSA) mutually agreed to transfer these moneys to ISSA via contract so that ISSA rather than the Department may distribute the funds consistent with the statutory directive. This agreement benefits both parties by enabling the Department to focus its limited resources on other administrative and enforcement matters, while empowering ISSA to foster a more active snowmobile community within the state. The parties signed the contract on September 5, 2017, specifying the requirements in law for these registration funds.

Chapter 47 contains the rules for registering, operating, and selling snowmobiles in the state. Two amendments are proposed for the chapter. First, rule 571—47.10(321G) is being added to make clear that at least 70 percent of snowmobile fees will be transferred via contract to a political subdivision or incorporated private organization for use consistent with Iowa Code section 321G.7(2). The new rule also outlines the minimum terms such a contract shall always contain to ensure that the statutorily mandated grants and cost-share programs are being implemented and to ensure that these public funds are subject to regular accounting and reporting. Second, the Commission's snowmobile registration revenue grant program rules contained in Division III are being rescinded. These rules are no longer necessary since ISSA shall be administering the program.

NATURAL RESOURCE COMMISSION[571](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The funds used in the snowmobile registration revenue grant program will not change because of the proposed amendments. A copy of the impact statement is available from the Department upon request.

Jobs Impact

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

Waivers

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

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 26, 2018. Comments should be directed to:

Rhonda Fowler
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Phone: 515.725.8490
Email: rhonda.fowler@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held. Upon arrival, attendees should proceed to the fourth floor to check in at the Department reception desk and be directed to the appropriate hearing location.

June 26, 2018	Conference Room 4E
9 to 10 a.m.	Wallace State Office Building
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** rule 571—47.10(321G):

571—47.10(321G) Snowmobile fee grants, cost-share programs, and contracts. The department shall transfer, via contract, at least 70 percent of snowmobile fees to a political subdivision or an incorporated private organization for distribution through snowmobile-related grants, cost-share agreements, or contracts consistent with Iowa Code section 321G.7(2). Terms of this contract shall, at a minimum, direct the receiving party to identify and make publicly available grant, cost-share program, and contract eligibility and selection criteria; accounting, auditing, and reporting requirements; termination terms; and unspent money repayment processes. Any contract entered into pursuant to this rule shall be available on the department's website or upon request from department snowmobile program staff.

This rule is intended to implement Iowa Code section 321G.7(2).

ITEM 2. Rescind rules **571—47.30(321G)** to **571—47.47(321G)**.

ARC 3825C

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Notice of Intended Action

Proposing rule making related to retention and recertification elections and providing an opportunity for public comment

The Public Employment Relations Board hereby proposes to amend Chapter 5, "Elections," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 20.6(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 20.15(2).

Purpose and Summary

The agency adopted emergency rules effective August 10, 2017, to implement provisions of 2017 Iowa Acts, House File 291. The agency subsequently adopted amendments to clarify the emergency rules, and those amendments will become effective June 13, 2018. This proposed amendment provides additional clarification to the rules regarding retention and recertification elections based on feedback and an internal review.

This amendment proposes changes to the initialization of a retention and recertification election to clarify that the agency will only conduct an election if the employer and certified employee organization are parties to a collective bargaining agreement. This amendment is proposed to conform subrule 5.6(1) to Iowa Code section 20.15(2)"a."

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

These rules do not provide for a waiver of their terms, but are instead subject to the agency's general waiver provisions found at rule 621—1.9(17A,20).

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

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 26, 2018. Comments should be directed to:

Amber DeSmet
Public Employment Relations Board
Jessie Parker Office Building
510 East 12th Street, Suite 1B
Des Moines, Iowa 50319
Phone: 515.281.4045
Email: amber.desmet@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 5.6(1) as follows:

5.6(1) *Timing of election periods.*

a. ~~The~~ When an employer and certified employee organization are parties to a collective bargaining agreement, the agency shall conduct an election, prior to the expiration of a collective bargaining agreement between an employer and a certified employee organization, to determine if the employees in a represented bargaining unit wish to retain and recertify the unit's certified representative. Elections will be conducted not less than once every five years.

b. For a certified employee organization that is a party to a collective bargaining agreement with a June 30 expiration date, the organization's retention and recertification election shall occur not earlier than June 1 nor later than November 1 in the year prior to the expiration of the agreement.

c. For a certified employee organization that is a party to a collective bargaining agreement with an expiration date other than June 30, the organization's retention and recertification election shall occur not earlier than 365 days nor later than 270 days prior to the expiration of the agreement, except as provided in subrule 5.6(10).

d. If the certified employee organization has paid the applicable election fee in a timely manner as provided in subrule 5.6(5), the organization's status shall not be adversely affected if the election is not concluded in compliance with this rule.

e. When scheduling a retention and recertification election, the agency will presume the collective bargaining agreement is for a term of one year commencing July 1 and ending June 30 unless the agreement clearly states an alternate term and effective dates.

f. Should an employer fail to file a collective bargaining agreement with the agency as required by Iowa Code section 20.29, ~~or if the parties have no agreement,~~ the agency will, for purposes of

scheduling the election, presume a maximum expiration date of five years pursuant to Iowa Code section 20.9 or two years pursuant to Iowa Code section 20.15, whichever is applicable, unless the employer subsequently submits a collective bargaining agreement that allows the agency to conduct an earlier election in accordance with subrule 5.6(1). The agency shall not conduct an election if the employer and certified employee organization are not parties to a collective bargaining agreement.

g. An extension of a collective bargaining agreement will alter the timing of the retention and recertification election only if the parties have reached agreement on the extension and have notified the agency in writing prior to the date the fee is due as set forth in the notice of intent to conduct the election. Should the parties' collective bargaining agreement inclusive of any extensions exceed five years, the agency will, for purposes of scheduling the election, presume a maximum duration of five years pursuant to Iowa Code section 20.9 or two years pursuant to Iowa Code section 20.15, whichever is applicable.

h. At least 30 days prior to the commencement of the retention and recertification election period, a public employer shall notify the agency if the certified employee organization has not been correctly identified as one which requires an upcoming election. The public employer shall submit to the agency all relevant information requested. The agency shall conduct an investigation to determine whether the election is required by statute and rule.

ARC 3814C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to maternal and child health program and providing an opportunity for public comment

The Department of Public Health hereby proposes to amend Chapter 76, "Maternal and Child Health Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed 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(17).

Purpose and Summary

The maternal and child health (MCH) programs are operated by the Department as the designated agency pursuant to an agreement with the federal government. The proposed amendments make minimal technical changes to improve efficiency and to align with current federal guidance. The proposed amendments include:

1. Updating definitions to align with current practices.
2. Adopting MCH services by alignment with the federal MCH pyramid or logic model by reference.
3. Removing the requirement for community-based agencies to submit a letter of intent to apply for funding during a competitive application year.
4. Changing membership of the Maternal and Child Health Advisory Council so that one ex officio member is a representative from a local MCH contract agency rather than the chair (or designee) of the Bureau of Family Health grantee committee, Iowa Department of Public Health.

Fiscal Impact

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's variance and waiver provisions contained in 641—Chapter 178.

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 26, 2018. Comments should be directed to:

Marcus Johnson-Miller
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: marcus.johnson-miller@idph.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 subrule 76.1(2) as follows:

76.1(2) *Services.*

a. The department's bureau of family health (BFH) enters into contracts with selected private nonprofit or public agencies for the assurance of access to prenatal and postpartum care for women, preventive and primary child health care services, and services to children and youth with special health care needs. ~~The types of services provided by these contracts are infrastructure building, population-based services, enabling services, and direct health care services.~~

b. The department's bureau of oral and health delivery systems (OHDS) collaborates with BFH to develop oral health programs to reduce barriers to oral health care and reduce dental disease through prevention.

c. The children and youth with special health care needs program is administered by the Child Health Specialty Clinics (CHSC) at the University of Iowa. The department contracts with the University of Iowa department of pediatrics' CHSC to provide services for children and youth with special health care needs~~, including infrastructure building, direct clinical care, care coordination and family support~~.

In accordance with the MCH Title V Block Grant Program administered by DHHS, HRSA, and MCHB, the CHSC shall ensure that public health funds will be used to cover the cost of services only after all other sources of reimbursement have been exhausted.

ITEM 2. Rescind the definitions of "Health education," "Informing," "Nutrition counseling," "Oral health counseling," "Oral health education," "Parenting education," "Psychosocial services" and "Well-child health care" in rule **641—76.4(135)**.

ITEM 3. Adopt the following **new** definition of "Maternal and child health services" in rule **641—76.4(135)**:

"Maternal and child health services" means services provided through local contract agencies to meet the needs of the client. The types of services provided include infrastructure building, population-based services, enabling services, and direct health care services.

ITEM 4. Amend rule **641—76.4(135)**, definition of "Presumptive eligibility determination," as follows:

"Presumptive eligibility determination" means temporary Medicaid eligibility that pays for medical services while a formal Medicaid decision is being made by the Iowa department of human services. ~~For pregnant women, presumptive eligibility determination is based only on a woman's statement regarding her family income. A qualified provider can presume that the pregnant women who are Iowa residents will be eligible for Medicaid. Qualified providers can grant Medicaid coverage to these women to pay for the cost of ambulatory prenatal care. Presumptive Medicaid eligibility begins with the date the qualified provider determines the woman is eligible and continues through the last day of the next month.~~ Presumptive eligibility is available for children, youth, and pregnant women.

ITEM 5. Rescind rule 641—76.5(135) and adopt the following **new** rule in lieu thereof:

641—76.5(135) MCH services. Maternal and child health services provided by contract agencies, as outlined in the annual application and contract for services, shall align with the MCH pyramid or model provided by the DHHS, HRSA, state policy manuals, and interagency agreements.

ITEM 6. Amend paragraph **76.6(2)"g"** as follows:

g. An individual whose income is above the poverty level established by Title XXI and below ~~300~~ 302 percent of the federal poverty guidelines will qualify for services on a sliding fee scale, as determined by the local agency's cost for the service. The department provides annual guidelines based on poverty levels established annually by DHHS. An individual whose income is at or above ~~300~~ 302 percent will qualify for services at full fee.

ITEM 7. Amend subrule 76.7(1) as follows:

76.7(1) A person or the parent or guardian of a minor desiring direct health services other than those provided to children and youth with special health care needs may apply to a contract agency using a Health Services Application, Form 470-2927~~,~~ or 470-2927(S)~~, Presumptive Eligibility~~. Individuals requesting presumptive eligibility must complete the Application for Health ~~Care~~ Coverage ~~for Children Application~~ and Help Paying Costs, Form ~~470-4855, 470-4855(S)~~ 470-5192, or the alternate form authorized by the HAWK-I board.

ITEM 8. Amend rule 641—76.9(135) as follows:

641—76.9(135) Grant application procedures for community-based contract agencies. Private nonprofit or public agencies seeking to provide community-based Title V MCH public health services shall ~~file a letter of intent to make~~ submit an application to the department during the competitive year~~. Applications shall be~~ to administer MCH 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~~ After a notice of award is made by the department, 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 event that competitive proposals receive an equal number of points, two department division directors and the respective bureau chief administering the program may conduct a second review utilizing the same scoring process.

ITEM 9. Amend subparagraph **76.23(2)"c"(2)** as follows:

(2) ~~The chair (or designee) of the bureau of family health grantee committee, Iowa department of public health~~ A representative from a local maternal and child health contract agency.

ARC 3815C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to rural health and primary care and providing an opportunity for public comment

The Public Health Department hereby proposes to amend Chapter 110, "Center for Rural Health and Primary Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 135.107 and 135B.33.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 135.107 and 135B.33.

Purpose and Summary

The proposed amendments, which are in response to statutory changes enacted in 2017 Iowa Acts, House File 393, division III, sections 13 to 15, do the following:

1. Remove the definitions for "area health education center (AHEC)," "community grant program," "primary care collaborative work group," and "primary care provider community scholarship program."
2. Change the name of the grant program provided under the primary care provider recruitment and retention endeavor (PRIMECARRE) from the "community grant program" to the "health care workforce and community support grant program."
3. Make minor technical corrections to the duties and organization of the members of the advisory committee to the center for rural health and primary care and how often they meet.
4. Establish a flexible application process based on the Department's strategic plan to be used by the center for rural health and primary care to establish a grant assistance program.
5. Add that the community or region must document its participation in the required community health services health assessment process.
6. Change the award limitations to allow grant awards to rural, underserved areas or special populations as identified by the Department's strategic plan or evidence-based documentation.
7. Change the applicant's matching fund requirement from "dollar-for-dollar match" to an optional match.
8. Remove the PRIMECARRE Primary Care Provider Community Scholarship Program.
9. Clarify that the health care provider will provide one year of obligated service in exchange for each year of loan repayment, unless federal requirements otherwise require.

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.

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 26, 2018. Comments should be directed to:

Katie Jerkins
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: katherine.jerkins@idph.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 rules 641—110.1(135) to 641—110.6(135) as follows:

641—110.1(135) Purpose and scope. The following rules developed by the department of public health govern the organization of the center for rural health and primary care within the bureau of oral and health delivery systems of the department of public health.

641—110.2(135,135B) Definitions.

~~*"Area health education center (AHEC)"* means the linking of university health centers with community-based delivery systems in order to improve delivery of health care.~~

"Center for rural health and primary care" means the department of public health administrative entity that is responsible for provision of technical planning assistance to rural communities and

counties, administration of a comprehensive primary care provider recruitment and retention endeavor, coordination of services to provide research of rural occupational health injuries and hazards, and coordination with the following: the center for agricultural health and safety, the center for health effects of environmental contamination, and the department of agriculture and land stewardship.

"Center for rural health and primary care advisory committee" means a group of individuals appointed by the governor, department directors and the Iowa legislature whose purpose is to provide advice and make recommendations on rural health issues to the center for rural health and primary care, department of public health.

~~*"Community grant program"* means a program that provides assistance in the form of a forgivable loan, grant, or other nonfinancial assistance to communities, to support the effort of a community which is part of the community's long-term community health services assessment and developmental plan.~~

"Community health services assessment and developmental plan" means a comprehensive health services assessment and plan which has been developed through a ~~community-wide~~ communitywide collaborative effort of public and private entities, including citizens at large, located in rural communities.

"Department" means the Iowa department of public health.

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

"Health care workforce and community support grant program" means a program that provides assistance in the form of a forgivable loan, grant, or other nonfinancial assistance to communities to support the effort of a community and that is part of the community's long-term community health services assessment and developmental plan.

~~*"Primary care collaborative work group"* means a group of individuals who, at a minimum, represent the following entities, who are responsible for coordination of all statewide recruitment and retention activities and for recommendations related to the implementation of the primary care provider recruitment and retention endeavor (PRIMECARRE): University of Iowa college of medicine, University of Osteopathic Medicine and Health Sciences, University of Iowa physician assistant school, University of Iowa nurse practitioner school, University of Osteopathic Medicine and Health Sciences physician assistant program, Iowa-Nebraska primary care association, Iowa medical society, Iowa osteopathic medical association, Iowa chapter of American college of osteopathic family physicians, Iowa academy of family physicians, nurse practitioner association, Iowa nurses association, Iowa hospital association, and Iowa physician assistants association.~~

"Primary care health professional" means an individual who is providing primary health services~~,~~ and is licensed to practice in the state of Iowa.

~~*"Primary care provider community scholarship program"* means a scholarship program that provides obligated-service scholarships to eligible health professional students for qualifying educational expenses incurred to obtain the credentials in that profession in return for providing primary care services in health professional shortage areas in the state.~~

"Primary care provider loan repayment program" means a loan repayment for qualifying loans to eligible health professionals who choose to establish practices in designated health professional shortage areas of the state.

"Primary care provider recruitment and retention endeavor ~~(PRIMECARRE)~~" or *"PRIMECARRE"* means a comprehensive primary health care initiative ~~to promote and assist~~ which promotes and assists local efforts in developing health care provider recruitment and retention programs~~,~~ and which includes a ~~community~~ health care workforce and community support grant program~~,~~ and a primary care provider loan repayment program~~, primary care provider community scholarships, and area health education centers~~.

"Primary health services" means health services regarding family practice, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health that are provided by physicians or other health professionals.

641—110.3(135) Responsibilities of the center.

110.3(1) The center for rural health and primary care shall provide technical planning assistance to rural communities and counties exploring innovative means of delivering rural health services through

community health services assessment, planning, and implementation, including but not limited to hospital conversions, cooperative agreements among hospitals, physician and health practitioner support, recruitment and retention of primary health care providers, public health services, emergency medical services, medical assistance facilities, rural health care clinics, and alternative means which may be included in the long-term community health services assessment and developmental plan.

110.3(2) The center for rural health and primary care shall encourage collaborative efforts of the local boards of health, hospital governing boards, and other public and private entities located in rural communities to adopt a long-term community health services assessment and developmental plan.

110.3(3) The center for rural health and primary care shall provide technical assistance to assist rural communities in improving Medicare reimbursements or establishing additional sources of funding through initiatives such as rural health clinics, distinct part skilled nursing facility beds, and the swing-bed program.

110.3(4) The center for rural health and primary care shall coordinate services to provide research for the following:

a. Examination of the prevalence of rural occupational health injuries in the state.

b. Assessment of training and continuing education available through local hospitals and others relating to diagnosis and treatment of diseases associated with rural occupational health hazards.

c. Determination of continuing education support necessary for rural health practitioners to diagnose and treat illnesses caused by exposure to rural occupational health hazards.

d. Determination of the types of actions that can help prevent agricultural accidents, surveillance and reporting of disabilities suffered by persons engaged in agricultural-related injuries and diseases in the state.

e. Identifying causal factors associated with agricultural-related injuries and diseases~~,~~ and indicating the effectiveness of intervention programs designed to reduce injuries and diseases.

110.3(5) ~~*f.* Cooperation~~ The center for rural health and primary care shall cooperate with the center for agricultural health and safety, the center for health effects of environmental contamination and the department of agriculture and land stewardship~~,~~ to coordinate programs to the extent practicable.

~~**110.3(5)**~~ **110.3(6)** The center for rural health and primary care shall administer grants for farm safety education efforts directed to rural families for the purpose of preventing farm-related injuries to children.

~~**110.3(6)**~~ **110.3(7)** The center for rural health and primary care shall administer ~~a primary care provider recruitment and retention endeavor (~~ the PRIMECARRE~~)~~.

a. PRIMECARRE shall include the following:

(1) A health care workforce and community support grant program.

(2) A primary care provider loan repayment program.

b. PRIMECARRE shall promote and accommodate local creativity in efforts to recruit and retain health care professionals to provide services in the locality. The focus shall be on developing health care provider recruitment and retention programs.

c. The center for rural health and primary care may enter into an agreement with the college student aid commission for the administration of the center's grant and loan repayment program.

~~**110.3(7)** The department of public health shall, in cooperation with the primary care collaborative work group, coordinate the initiative for the development of area health education centers, including making application for a federal grant.~~

641—110.4(135) Advisory committee to the center for rural health and primary care.

110.4(1) The purpose of the advisory committee is to provide advice and make recommendations on rural health issues to the center for rural health and primary care, department of public health.

110.4(2) The advisory committee ~~will~~ may provide the expertise and technical assistance necessary to review and recommend policies pertinent to rural health issues, as well as guidelines for grants and other programs of the center for rural health and primary care.

~~**110.4(3)** The advisory committee will review reports prepared for the general assembly and make recommendations regarding the reports compiled.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~**110.4(4)**~~ **110.4(3)** The advisory committee ~~will~~ may evaluate new care delivery concepts arising to meet the needs of the rural population.

641—110.5(135) Organization. The advisory committee to the center for rural health and primary care shall consist of one representative, approved by the respective agency, of each of the following agencies: the department of agriculture and land stewardship, the ~~Iowa~~ department of public health, the department of inspections and appeals, ~~the~~ a national or regional institute for rural health policy, ~~the social and behavioral research center for rural health,~~ the institute of agricultural medicine and occupational health, and the Iowa state association of counties. The governor shall appoint two representatives of consumer groups active in rural health issues and a representative of each of two farm organizations active within the state, a representative of an agricultural business in the state, a practicing rural family physician, a practicing rural physician assistant, a practicing rural advanced registered nurse practitioner, and a rural health practitioner who is not a physician, physician assistant, or advanced registered nurse practitioner, as members of the advisory committee. The advisory committee shall also include as members two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

641—110.6(135) Meetings.

110.6(1) ~~*Meeting dates*~~ *Meetings.* The advisory committee shall meet at least ~~quarterly~~ semiannually to conduct its business. Meetings can be scheduled as business requires, but notice to committee members must be at least five working days prior to the meeting date. The administrative head of the center for rural health and primary care and the director of the center for agricultural health and safety shall attend these meetings.

~~**110.6(2)** *Meeting procedures.* Robert's Rules of Order shall govern at all meetings.~~

~~**110.6(3)**~~ **110.6(2)** *Quorum.* A majority of the total membership shall constitute a quorum. Action can be taken by a vote of the majority of the membership.

~~**110.6(4)**~~ **110.6(3)** *Vacancies.* Vacancies will be filled in the same manner as ~~was~~ is prescribed in the ~~Code of~~ Iowa Code. In the case of a vacancy, the chairperson will notify the agency of the need to appoint another representative.

~~**110.6(5)**~~ **110.6(4)** *Term of appointment.* Unless otherwise specified by law, term of appointment is for two years with no more than three consecutive terms, excepting the department of public health representative. Exceptions for individual reappointment from organizations represented shall be determined by the director of public health.

~~**110.6(6)**~~ **110.6(5)** *Subcommittees.* The advisory committee for the center for rural health and primary care may designate one or more subcommittees to have such powers and perform such duties as may be deemed necessary by the committee.

ITEM 2. Amend the heading preceding rule **641—110.11(135)** as follows:

PRIMECARRE ~~COMMUNITY~~ HEALTH CARE WORKFORCE AND COMMUNITY SUPPORT GRANT PROGRAM

ITEM 3. Amend rule 641—110.11(135) as follows:

641—110.11(135) Purpose. The purpose of the PRIMECARRE ~~community~~ health care workforce and community support grant program is to support community efforts which are part of the community's long-term community health services assessment and developmental plan. The application process is based upon the department's strategic plan. A community or region applying for assistance must complete a community health services assessment and adopt a long-term developmental plan. The community may request assistance with the assessment from the ~~center for rural health and primary care~~ department. The ~~long-term developmental~~ community's or region's plan shall include, to the extent possible, a clear commitment to informing high school students of the health care opportunities which may be available to such students. The grant assistance may be in the form of a forgivable loan, grant, or other nonfinancial assistance as deemed appropriate by the center for rural health and primary

care. Grants or other assistance provided by the center are intended to promote and accommodate local creativity in efforts to recruit and retain health care professionals to provide services in the locality. Notice of the availability of these public funds shall be published in the Iowa Administrative Bulletin in accordance with 641—Chapter 176.

110.11(1) *Eligibility.* The following requirements must be met in order to be eligible for the program:

~~*a.* The applicant must be a single community with a population of 10,000 or less, or a region consisting of communities with populations of 10,000 or less, respectively.~~

~~*b.*~~ *a.* The community or region must have illustrated efforts to meet the health care provider needs of the locality and surrounding area.

~~*c.*~~ *b.* The community or region must have completed a community health services assessment and adopted a long-term developmental plan as established herein.

~~*d.*~~ *c.* ~~A letter of intent must be submitted by January 1 preceding the year for which application for assistance is to be made~~ Participation in a community health services assessment process shall be documented by the community or region.

110.11(2) *Funding ~~limitations~~.* Grants awarded under the program shall be ~~subject to the following limitations:~~ awarded to rural, underserved areas or special populations as identified by the department's strategic plan or evidence-based documentation.

~~*a.* An award of no more than $10,000 for a single community or region with a population of 10,000 or less.~~

~~*b.* An award of no more than $1 per capita for a region in which the population exceeds 10,000.~~

110.11(3) *Use of funds.* Funds may be used for the following:

a. The procurement of clinical equipment, clinical facilities, and telecommunications facilities.

b. Support for locum tenens arrangements and primary care provider mentor programs.

c. Other capacity-building activities as they relate to recruitment and retention of primary health care providers.

110.11(4) *Matching ~~requirements~~ funds.* Applications submitted ~~shall contain a commitment of at least a dollar-for-dollar match of~~ may contain a commitment of matching funds for the grant assistance.

110.11(5) *Application process.* Applicants for grant funds must complete application forms provided by the department. Application materials shall be made available by the department at least 45 days prior to the application due date. Grant applications will be issued in accordance with 641—Chapter 176.

110.11(6) *Selection criteria and review process.* Selection criteria will be based on illustrated efforts to meet the health care provider needs of the locality and surrounding area. Selection criteria and the process for evaluation of applications shall be described in the application materials provided by the department. A competitive grant application review committee shall be appointed by the administrative head of the center for rural health and primary care. Grants will be awarded according to review criteria developed by the center, in accordance with 641—Chapter 176.

110.11(7) *Notice of grant award.* The ~~director of public health~~ department shall notify all applicants ~~in writing~~ of the decision of grant awards.

110.11(8) *Appeals.* Applicants with a denied request for funding may appeal the decision of grant awards. The appeal shall be made in writing to the director, Iowa department of public health, within 10 days of the notification date of the grant awards decision. The appeal shall be mailed by certified mail, return receipt requested, or delivered by personal service. The decision of the director of public health becomes the department's final action and shall be sent by certified mail, return receipt requested, or delivered by personal service within 14 days of the receipt of the appeal.

110.11(9) *Grantee oversight.* The department shall monitor the use of funds granted to communities to ensure accountability and conformance with legislative intent. Oversight processes shall be described in the application materials provided by the department.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 4. Rescind the heading for the PRIMECARRE Primary Care Provider Community Scholarship Program preceding rule **641—110.16(135)**.

ITEM 5. Rescind rule **641—110.16(135)**.

ITEM 6. Renumber rule **641—110.21(135)** as **641—110.16(135)**.

ITEM 7. Amend renumbered subrule 110.16(1) as follows:

110.16(1) *Health care professional eligibility.* The following requirements must be met by health care professionals in order to be eligible for the program:

a. The status of the health care professional's citizenship must meet requirements of the National Health Service Corps loan repayment program.

b. The health care professional must be licensed or certified to practice in the state of Iowa as a primary care health professional as defined in 641—110.2(135) and approved by the state for purposes of program priorities and requirements. Physicians must have completed a primary care residency and be board-eligible or board-certified.

c. The health care provider must possess evidence of a contractual agreement to practice full-time at a site in a designated shortage area within the state and approved by the state for the minimum number of years required by federal programs providing support for the program.

d. The health care provider shall provide one year of obligated service in exchange for each year of loan repayment, unless federal requirements otherwise require.

~~*d.*~~ *e.* The health care provider must agree to comply with all contract provisions and the rules and regulations as promulgated by the department.

~~*e.*~~ *f.* The health care provider must possess a license that is not restricted by a medical regulatory authority of any jurisdiction of the United States, other nations, or territories.

~~*f.*~~ *g.* The health care professional must be eligible under Section 338B of the Public Health Service Act as amended November 16, 1990, by Public Law 101-597.

~~*g.*~~ *h.* The health care provider must agree to provide full-time primary health care services at a clinical site in a designated health professional shortage area.

~~*h.*~~ *i.* The health care provider must agree not to discriminate on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in Title XVIII (Medicare) of the Social Security Act, or pursuant to the program established in Title XIX (Medicaid) of such Act.

~~*i.*~~ *j.* The health care provider must agree to accept assignment under Section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under Part B of Title XVIII and to enter into an appropriate agreement with the state agency that administers the state plan for medical assistance under Title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

~~*j.*~~ *k.* The health care provider must complete an application form provided by the Iowa department of public health.

ITEM 8. Amend renumbered subrule 110.16(7) as follows:

110.16(7) *Contract oversight and administration.* The department of public health shall establish and enforce the terms of the contract, including implementation of any methods, e.g., legal action, that may be necessary to recoup loan repayment funds in the event of failure on the part of a program recipient to fulfill the terms and conditions of the contract. The department shall take into consideration mitigating circumstances which may prohibit a recipient from fulfilling the recipient's contractual obligation or for whom fulfilling the obligation would cause undue hardship. The department of public health shall also provide for cancellation of contracts for reasonable cause to be determined by the department, unless federal requirements otherwise require.

ITEM 9. Amend **641—Chapter 110**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 135.107 and 135B.33.

ARC 3816C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to Iowa law enforcement emergency care providers and providing an opportunity for public comment

The Public Health Department hereby proposes to rescind Chapter 139, "Iowa Law Enforcement Emergency Care Provider," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 147A.

Purpose and Summary

The emergency care provider certification process for Iowa peace officers is managed within the Iowa Law Enforcement Academy based on guidance provided by the Iowa Department of Public Health. The Iowa Law Enforcement Academy is in the process of amending 501—Chapters 1, 3, 4, 9 and 10 to reflect the current process for the Department's involvement. Chapter 139 is no longer relevant in the certification process and is proposed to be rescinded. The level of training required of an Iowa peace officer to obtain an emergency care provider certification has not changed.

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.

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 26, 2018. Comments should be directed to:

Rebecca Curtiss
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: rebecca.curtiss@idph.iowa.gov

PUBLIC HEALTH DEPARTMENT[641](cont'd)

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:

Rescind and reserve **641—Chapter 139**.

ARC 3819C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Notice of Intended Action

Proposing rule making related to forestry technical guide and providing an opportunity for public comment

The Soil Conservation and Water Quality Division hereby proposes to amend Chapter 12, "Water Protection Practices—Water Protection Fund," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 161A.4(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 161A.2.

Purpose and Summary

The proposed amendment updates the reference to the Department of Natural Resources' forestry technical guide.

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 27—Chapter 8.

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on June 26, 2018. Comments should be directed to:

Margaret Thomson
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: margaret.thomson@Iowaagriculture.org

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 27—12.83(161C) as follows:

27—12.83(161C) Practice standards and specifications. Soil and water conservation practices shall meet Natural Resources Conservation Service conservation standards and specifications where applicable. These standards may be accessed through the electronic field office technical guide at http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=IA.

Tree planting, forest stand improvement, site preparation for natural regeneration and rescue treatment standards may be accessed through the department of natural resource's forestry technical guide found at ~~http://www.iowadnr.com/forestry/pdf/techguide.pdf~~ www.iowadnr.gov/Portals/idnr/uploads/forestry/ForestryTechguide.pdf.

Standards and specifications are also available in hard copy in the district office where the practice will be implemented. These specifications and the general conditions, rule 27—10.81(161A), shall be met in all cases. To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

ARC 3820C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to special registrations plates and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 401, "Special Registration Plates," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.34(13).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 17A and section 321.34.

Purpose and Summary

The Department is proposing to update Chapter 401 by removing barriers to accepting certain registration plate applications electronically and conforming the rules with 2016 Iowa Acts, chapter 1068, section 1, which amended Iowa Code section 321.34(13) by replacing the provisions for a new special processed emblem license plate with provisions for a special decal license plate.

The proposed amendments strike the requirement that the signatures on the emergency medical services plate application be original and notarized, which will allow the application to be submitted to the Department electronically. The proposed amendments also align the chapter to current Iowa Code section 321.34 by rescinding the rules regarding special processed emblem license plates and adopting rules for a special license plate that contains a space for the display of an organization decal (sticker), including outlining the process for a qualifying organization's applying to create a new decal and the process for applying for a decal license plate. In addition, the proposed amendments establish the correct dimensions for a decal and clarify the denial, revocation and appeal process.

Prior to the 2016 legislative change, anyone could submit a request to the Department for approval of a new special registration plate with a processed emblem. If the Department approved the request and the design of the proposed emblem, a minimum of 500 paid applications were required before the Department began issuing the plate. If sufficient applications were not received within one year, rules allowed the Department to cancel the approval. An alternative process within the Department's rules allowed for a state agency to sponsor a special registration plate. However, when the legislature amended Iowa Code section 321.34, the process for requesting a new special processed emblem plate was replaced with a process for requesting a special registration plate containing a space reserved for placement of an organization decal to be designed, produced, and issued by a qualifying organization. Proposed new rules 761—401.15(17A,321) and 761—401.16(17A,321) align the chapter to current Iowa Code section 321.34 by providing for a special license plate that contains a space for the display of an organization decal (sticker). The plates are available without an additional special plate fee at the time of initial registration of a vehicle and are renewed annually upon payment of the regular annual registration fee for the vehicle. The special decal plates are also available as personalized plates upon payment of personalized plate fees.

Fiscal Impact

The amendments to the Department's rules have no known fiscal impact beyond that of the legislative changes the amendments were intended to implement.

TRANSPORTATION DEPARTMENT[761](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the 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 26, 2018. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
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:

June 28, 2018	Department of Transportation
10 a.m.	Motor Vehicle Division
	6310 SE Convenience Boulevard
	Ankeny, 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 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. Amend paragraph **401.2(1)"b"** as follows:

b. Collegiate plates, personalized plates, and special registration plates that have eligibility requirements must be requested using an application form prescribed by the department. Unless otherwise specified, completed application forms for these plates shall be submitted to the department at the following address: Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation,

P.O. Box 9278, Des Moines, Iowa 50306-9278. Application forms may be obtained from the office of vehicle and motor carrier services or from any county treasurer's office. Application forms are also available on the department's ~~Web site~~ website at ~~http://www.iowadot.gov/mvd~~ www.iowadot.gov.

ITEM 2. Amend subrule 401.10(1) as follows:

401.10(1) Application for emergency medical services (EMS) plates shall be submitted to the department on a form prescribed by the department. The applicant and the applicant's service director shall sign the application form certifying that the applicant is a current member of a paid or volunteer emergency medical services agency. ~~The signatures must be original and notarized.~~ For purposes of this subrule, "service director" means a service director as defined in Iowa department of public health rule 641—132.1(147A).

ITEM 3. Rescind rule 761—401.15(321) and adopt the following **new** rule in lieu thereof:

761—401.15(17A,321) Nonprofit organization decal. The following shall apply to all applications for an organization decal under Iowa Code section 321.34(13).

401.15(1) Application to request a new decal shall be submitted to the department on Form 411346. The application shall be subject to the requirements in Iowa Code section 321.34(13) and shall include all of the information and documentation required by Iowa Code section 321.34(13)*"c."* An organization applying for approval of a decal shall meet the criteria set forth in Iowa Code section 321.34(13)*"b"*(1). A group of organizations applying for approval of a decal must have a common purpose as required by Iowa Code section 321.34(13)*"b"*(2) and each organization within the group must meet the criteria set forth in Iowa Code section 321.34(13)*"b"*(1).

401.15(2) The proposed decal shall be designed to be placed in the space reserved for the placement of an organization decal and shall be limited to dimensions of 2.875″ in width and 3″ in height. As required by Iowa Code section 321.34(13)*"d,"* the proposed decal design shall not:

a. Promote a specific religion, faith or anti-religious sentiment.

b. Have any sexual connotation.

c. Be vulgar, prejudiced, hostile, insulting, or racially or ethnically degrading.

401.15(3) The office of vehicle and motor carrier services may consult with other organizations, law enforcement authorities, and the general public concerning the decal design.

401.15(4) Within 60 days after receiving the application, the office of vehicle and motor carrier services shall advise the organization of the department's approval or denial of the application. The department reserves the right to approve or disapprove any decal design.

401.15(5) If the decal is approved and at a later date it is determined that a false application was submitted, or a violation of Iowa Code section 321.34(13) or this chapter occurred, the department shall revoke the decal and the organization shall no longer issue the decal.

401.15(6) If the department denies or revokes the decal design, the department shall send notice of the denial or revocation by certified mail to the organization at the address listed on the application. The revocation or denial shall become effective 20 days from the date of mailing. The organization may contest the decision of the department in accordance with 761—Chapter 13. The request shall be deemed timely if it is delivered or postmarked on or before the effective date specified in the notice.

ITEM 4. Rescind rule 761—401.16(321) and adopt the following **new** rule in lieu thereof:

761—401.16(17A,321) Special plates with space reserved for a nonprofit organization decal.

401.16(1) Application for special plates with space reserved for an organization decal shall be subject to the requirements in Iowa Code section 321.34(13).

401.16(2) A person shall obtain the decal to display on the special registration plate from an organization approved by the department. A person shall not display a decal on a vehicle registration plate other than a decal approved by the department. An approved decal shall only be affixed to and displayed in the space reserved for placement of the organization decal on the registration plate.

401.16(3) Personalized special plates with space reserved for an organization decal shall be limited to no more than five initials, letters, or combinations of numerals and letters.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 5. Rescind and reserve rule **761—401.17(321)**.

ITEM 6. Amend rule 761—401.18(321), introductory paragraph, as follows:

761—401.18(321) Combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, combat medical badge, fallen peace officers and civil war sesquicentennial plates. Following is the application and approval process for special plate requests under Iowa Code section ~~321.34 as amended by 2011 Iowa Acts, House File 651, section 2~~ 321.34(20C).

ITEM 7. Amend subrule 401.18(1) as follows:

401.18(1) *Design.*

a. The plates shall be a standard background plate with a distinguishing processed emblem specific to each plate type~~, consistent with processed emblems approved pursuant to rule 761—401.15(321)~~.

b. The distinguishing processed emblem shall be limited to ~~3″ × 3½″~~ 2.875″ × 3″ on the registration plate.

c. No change.

d. The office of vehicle and motor carrier services may consult with other organizations, law enforcement authorities, and the general public concerning distinguishing processed emblems.

ITEM 8. Amend rule 761—401.35(321) as follows:

761—401.35(321) Revocation of special registration plates—appeal.

401.35(1) Special registration plates shall be revoked if they have been issued in conflict with the statutes or rules governing the plates' issuance. Revoked plates shall be surrendered to the department within 30 days of the date of revocation.

401.35(2) The department shall send the notice of revocation to a person's mailing address by certified mail, and the revocation shall become effective 20 days from the date of mailing. The person may contest the decision of the department in accordance with 761—Chapter 13. The request shall be deemed timely if it is delivered or postmarked on or before the effective date specified in the notice.

ITEM 9. Amend **761—Chapter 401**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 35A.11 ~~as amended by 2011 Iowa Acts, House File 651, section 1~~, 321.34 ~~as amended by 2011 Iowa Acts, House File 651, section 2~~, 321.105, 321.166 and 321L.1 and chapter 17A.

ARC 3821C

VETERINARY MEDICINE BOARD[811]

Notice of Intended Action

Proposing rule making related to veterinary technician examination fees and providing an opportunity for public comment

The Board of Veterinary Medicine hereby proposes to amend Chapter 8, "Auxiliary Personnel," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.9.

VETERINARY MEDICINE BOARD[811](cont'd)

Purpose and Summary

The proposed amendment clarifies that if a veterinary technician state examination is given by a professional examination service, an additional fee may be charged. The rule currently states that a fee may be charged by a professional examination service for the national veterinary technician examination.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The state currently conducts the veterinary technician state examination. If a professional examination service conducts the examination and charges a fee, the fee would go to the company.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written 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 26, 2018. Comments should be directed to:

David Schmitt
Board of Veterinary Medicine
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 8.3(1) as follows:

8.3(1) An application fee in an amount determined by the board not to exceed $45 shall accompany the application to take the veterinary technician state examination; both the fee and the application must be received by the board at least 30 days before the examination. An additional fee shall be submitted for the veterinary technician ~~national~~ examination when a professional examination service is utilized by

the board. The additional fee shall be the charges for the examination by the professional examination service plus administrative costs in an amount determined by the board. The fee for the veterinary technician state examination may be waived for qualifying military service personnel upon request.

ARC 3829C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rule making related to license issuance and renewal

The Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Chapter 18, "Issuance of Administrator Licenses and Endorsements," Chapter 20, "Renewals," and Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

The amendments eliminate coursework deficiencies for some out-of-state applicants and adjust the renewal requirements for an applicant who holds a specialist's or doctor's degree.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3710C**. A public hearing was held on April 18, 2018. No one attended the public hearing. No public comments were received.

The amendments are revised from those published under Notice of Intended Action. Based on feedback by the Administrative Rules Review Committee regarding the need for the addition of a dance endorsement, Item 2 of the Notice was not adopted by the Board, and the subsequent Items are renumbered. In addition, clarity was provided to the amendment in Item 1 concerning minimum coursework requirements for out-of-state applicants.

Adoption of Rule Making

This rule making was adopted by the Board on May 11, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 282—13.5(272) as follows:

282—13.5(272) Teacher licenses. A license may be issued to ~~applicants~~ an applicant who ~~fulfill~~ fulfills the general requirements set out in subrule 13.5(1) and the specific requirements set out for each license.

13.5(1) No change.

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

a. No change.

b. In addition to the requirements set forth in subrule 13.5(1), ~~applicants~~ an applicant from a non-Iowa ~~institutions~~ institution:

(1) and (2) No change.

(3) Shall provide an official institutional transcript(s) to be analyzed for the requirements necessary for Iowa licensure. An applicant must have completed at least 75 percent of the coursework as outlined in 281—subrules 79.15(2) to 79.15(5) and an endorsement requirement through a two- or four-year institution in order for the endorsement to be included on the license. An applicant who has not completed at least 75 percent of the coursework for at least one of the basic Iowa teaching endorsements completed will not be issued a license. ~~Applicants~~ An applicant seeking a board of educational examiners transcript review must have achieved a C- grade or higher in the courses that will be considered for licensure. An applicant who has met the minimum coursework requirements in this subrule will not be subject to additional coursework deficiency requirements if the applicant provides verification of ten years of successful teaching experience or if the applicant provides verification of five years of successful teaching experience and a master's degree.

(4) to (6) No change.

c. to *e.* No change.

13.5(3) No change.

ITEM 2. Amend rule 282—18.6(272) as follows:

282—18.6(272) Specific requirements for an administrator prepared out of state. An applicant seeking Iowa licensure who completes an administrator preparation program from a recognized non-Iowa institution shall verify the requirements of rules 282—18.1(272) and 282—18.4(272) through traditional course-based preparation program and transcript review. A recognized non-Iowa administrator preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants must hold and submit a copy of a valid or expired regular administrator certificate or license in the state in which the preparation was completed, exclusive of a temporary, emergency or substitute license or certificate.

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

~~*a.* Professional core requirements. The applicant has not completed all of the required courses in the professional core in 281—subrules 79.15(2) and 79.15(3) and 281—paragraphs 79.15(5)*"a"* to *"k."*~~

~~*b.*~~ *a.* Endorsement requirements. The applicant has not completed a minimum of 75 percent of the coursework for the PK-12 principal and PK-12 supervisor of special education endorsement, and any additional administrator endorsements desired.

~~*c.*~~ *b.* Regular administrator certificate or license in the state in which the preparation was completed. The applicant is eligible for and has applied for a regular administrator certificate or license in the state in which the preparation was completed but has not yet received the certificate or license.

~~*d.*~~ *c.* Approved evaluator training requirement. The applicant has not completed the approved evaluator training requirement.

18.6(2) No change.

ITEM 3. Amend rule 282—20.6(272) as follows:

282—20.6(272) Specific renewal requirements for a master educator license.

20.6(1) No change.

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

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

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

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

d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

e. Four units may be earned upon successful completion of the National Board for Professional Teaching Standards certification. This certification may be used one time for either the standard or master educator license. Four units may also be earned for each National Board for Professional Teaching Standards certification renewal and may be used toward the subsequent renewal of either the standard or master educator license.

f. One unit may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator.

ITEM 4. Amend rule 282—20.9(272) as follows:

282—20.9(272) Specific renewal requirements for an administrator license.

20.9(1) No change.

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

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

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

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

d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

e. One unit may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator, or in the case of a superintendent, as verified by the school board president.

20.9(3) No change.

ITEM 5. Amend rule 282—27.5(272) as follows:

282—27.5(272) Specific renewal requirements for the standard professional service license.

27.5(1) No change.

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

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

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

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

d. One unit may be earned upon completion of each licensure renewal course or activity approved pursuant to guidelines established by the board of educational examiners.

[Filed 5/14/18, effective 7/11/18]
[Published 6/6/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/6/18.

ARC 3830C

MEDICINE BOARD[653]

Adopted and Filed

Rule making related to medical cannabidiol standards of practice

The Board of Medicine hereby amends Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2017 Iowa Acts, House File 524, and Iowa Code chapters 124E, 147, 148 and 272C.

Purpose and Summary

The purpose of Chapter 13 is to establish standards of practice and principles of medical ethics for administrative medicine physicians, medical physicians and surgeons, and osteopathic physicians and surgeons. This rule relates to the use of medical cannabidiol for patients with a qualifying illness. This rule establishes the process by which the Board of Medicine receives recommendations from the Medical Cannabidiol Board concerning amendments for the list of debilitating medical conditions that could be treated with medical cannabidiol and the form and quantity of the medical cannabidiol. This rule also provides grounds for discipline for physicians who violate the rule.

Public Comment and Changes to Rule Making

The Board approved a Notice of Intended Action during a regularly scheduled meeting on February 16, 2018, and that Notice was published in the Iowa Administrative Bulletin on March 14, 2018, as **ARC**

3675C. A public hearing was held on April 4, 2018. No public comments were presented or received concerning this rule. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on May 4, 2018.

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 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 will become effective on July 11, 2018.

The following rule-making action is adopted:

Adopt the following **new** rule 653—13.15(124E,147,148,272C):

653—13.15(124E,147,148,272C) Standards of practice—medical cannabidiol.

13.15(1) *Definitions.* For purposes of this rule:

"Board of medicine" means the board established pursuant to Iowa Code chapters 147 and 148.

"Bordering state" means the same as defined in Iowa Code section 331.910.

"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.
5. Crohn's disease.
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.

9. Untreatable pain.

"Department" means the Iowa department of public health.

"Form and quantity" means the types and amounts of medical cannabidiol allowed to be dispensed to a patient or primary caregiver as approved by the department subject to recommendation by the medical cannabidiol board and approval by the board of medicine.

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

"Medical cannabidiol board" means the board established pursuant to Iowa Code section 124E.5.

"Primary caregiver" means a person who is a resident of this state or a bordering state, including but not limited to a parent or legal guardian, at least 18 years of age, who has been designated by a patient's health care practitioner as a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol pursuant to the provisions of this chapter.

"Untreatable pain" means any pain whose cause cannot be removed and, according to generally accepted medical practice, the full range of pain management modalities appropriate for the patient has been used without adequate result or with intolerable side effects.

"Written certification" means a document signed by a physician licensed pursuant to Iowa Code chapter 148 with whom the patient has established a patient-physician relationship and who is the patient's primary care provider which states that the patient has a debilitating medical condition and identifies that condition and provides any other relevant information.

13.15(2) *Written certification.* A physician who is a patient's primary care provider may provide the patient a written certification of diagnosis if, after examining and treating the patient, the physician determines, in the physician's medical judgment, that the patient suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E.

a. The physician shall provide explanatory information as provided by the department to the patient about the therapeutic use of medical cannabidiol and the possible risks, benefits, and side effects of the proposed treatment.

b. Subsequently, the physician shall do the following:

(1) Determine, on an annual basis, if the patient continues to suffer from a debilitating medical condition and, if so, may issue the patient a new written certification of that diagnosis.

(2) Otherwise comply with all requirements established by the department pursuant to rule.

c. A physician may provide, but has no duty to provide, a written certification pursuant to this rule.

13.15(3) *Adding or removing debilitating medical conditions and amending form and quantity of medical cannabidiol.* Recommendations made by the medical cannabidiol board pursuant to Iowa Code section 124E.5 relating to the addition or removal of allowable debilitating medical conditions for which the medical use of cannabidiol would be medically beneficial or to the amendment of the form and quantity of allowable medical uses of cannabidiol shall be made to the board of medicine for consideration. The medical cannabidiol board shall submit a written recommendation, a copy of the petition and all other information received during consideration of the petition. The board of medicine shall consider the information received from the medical cannabidiol board and may seek information from other sources if it is deemed relevant by the board of medicine. The decision regarding a recommendation by the medical cannabidiol board is at the sole discretion of the board of medicine. The board of medicine shall make its decision within 180 days of receipt of the recommendation from the medical cannabidiol board. If the recommendation is approved by the board of medicine, it shall be adopted by rule.

13.15(4) *Financial interests.* A physician shall not share office space with, accept referrals from, or have any financial relationship with a medical cannabidiol manufacturer or dispensary.

13.15(5) *Criminal prosecution.* A physician, including any authorized agent or employee thereof, shall not be subject to prosecution for the unlawful certification, possession, or administration of marijuana under the laws of this state for activities arising directly out of or directly related to the

certification or use of medical cannabidiol in the treatment of a patient diagnosed with a debilitating medical condition as authorized by Iowa Code chapter 124E.

13.15(6) *Civil or disciplinary penalties.* A physician, including any authorized agent or employee thereof, shall not be subject to any civil or disciplinary penalties by the board of medicine or any business, occupational, or professional licensing board or entity, solely for activities conducted relating to a patient's possession or use of medical cannabidiol as authorized by Iowa Code chapter 124E. Nothing in this rule prevents the board of medicine from taking action in response to violations of any other sections of law or rule.

13.15(7) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of these rules or the rules found in 653—Chapter 23. Grounds for discipline include, but are not limited to, the following:

a. The physician provides an individual a written certification without establishing a patient-physician relationship, including examining and treating the individual, or without being the individual's primary care provider.

b. The physician provides a patient a written certification without determining, in the physician's medical judgment, that the patient suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E.

c. The physician provides a patient a written certification without providing explanatory information as provided by the department to the patient about the therapeutic use of medical cannabidiol and the possible risks, benefits, and side effects of the proposed treatment.

d. The physician provides an individual a new written certification without determining, on an annual basis, that the patient continues to suffer from a debilitating medical condition.

e. The physician shares office space with, accepts referrals from, or has a financial relationship with a medical cannabidiol manufacturer or dispensary.

This rule is intended to implement Iowa Code chapters 124E, 147, 148 and 272C.

[Filed 5/15/18, effective 7/11/18]
[Published 6/6/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/6/18.

ARC 3831C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to deer hunting

The Natural Resource Commission hereby amends Chapter 94, "Nonresident Deer Hunting," and Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455A.5(6), 481A.38(1)"a," 481A.39, 481A.48(1), 481A.48(5) and 481A.48(6).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 481A.38(1)"a," 481A.39, 481A.48(1), 481A.48(5), and 481A.48(6) and 2018 Iowa Acts, House File 631.

Purpose and Summary

Chapter 94 provides rules for deer hunting by nonresidents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of

take, and transportation and reporting requirements. Chapter 106 provides rules for deer hunting by residents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

Chapter 94

All of the rules regarding method of take in Chapter 94 are amended to reference the method of take rules in Chapter 106 to ensure consistency in the rules and to avoid the need to amend both chapters in the future when changes apply to both chapters.

Nonresident license quotas for any-sex and mandatory antlerless licenses in Chapter 94 are decreased in Zones 1, 2, and 10 and increased in Zone 9. The changes in quotas are intended to stabilize a declining deer population in the northwest area of the state, similar to the changes in this rule making regarding Chapter 106. More specifically, both any-sex and mandatory antlerless license quotas are decreased from 180 to 90 in Zones 1 and 2 for all methods of take. Because Iowa Code section 483A.8(3)"b" requires that a nonresident who purchases an any-sex license must also purchase an antlerless license, the two licenses are necessarily paired in the regulations. This decrease results in a corresponding decrease in any-sex licenses for bow season from 63 to 31 because Iowa Code section 483A.8(3)"c" also requires that bow licenses not account for more than 35 percent of nonresident any-sex deer licenses available each year. Similarly, both any-sex and mandatory antlerless license quotas will be decreased from 200 to 100 in Zone 10 for all methods of take, resulting in a corresponding decrease in any-sex licenses available for bow season from 70 to 35. Finally, both any-sex and mandatory antlerless license quotas are increased from 600 to 880 for all methods of take in Zone 9, resulting in an increase in any-sex licenses available for bow season from 210 to 308. The changes to the number of nonresident any-sex and mandatory antlerless licenses available in these four zones result in no net change to the number of nonresident any-sex and mandatory antlerless licenses available statewide.

Chapter 106

Several of the amendments to Chapter 106 involve reestablishment of a January antlerless-deer-only season in Allamakee, Appanoose, Clayton, and Wayne counties and define license requirements, season dates, bag limits, and means and method of take. This season is coupled with increased county quotas and is targeted at slowing the spread of chronic wasting disease (CWD) in the four counties.

Modifications to the resident antlerless deer county quotas are made to Allamakee, Appanoose, Bremer, Butler, Clayton, Fayette, Madison, Wayne, and Winneshiek counties. With the exception of Bremer County, all quotas are increased in order to reduce deer densities for disease control or to alleviate negative human-deer interactions. The quota in Bremer County is decreased modestly as a first attempt to stabilize a healthy local population. Statewide, the overall quota change is an increase of 1,550.

Clarifications are made to the definition of a legal handgun and to the legal calibers for straight wall cartridge rifles. These clarifications will ensure that hunters can determine what firearms are a legal method of take for deer hunting in this state. These definitions apply only to the firearms that may be used while deer hunting and have no bearing on or relevance to other firearms laws.

Lastly, general organization and clarification changes are made in Chapter 106. For example, in subrule 106.1(9), two references to 2009 Iowa Acts are updated to reflect codification as Iowa Code section 483A.8C.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 11, 2018, as **ARC 3731C**. A public hearing was held on May 1, 2018, at 12 noon in Conference Room 4E, Wallace State Office Building, Des Moines, Iowa. No one attended the public hearing.

In total, 3,245 comments were received. Of the total comments, 98.4 percent addressed three subjects: opposed to a round limitation (1,161), opposed to language defining firearm types (1,137), and in favor of youth handgun use for deer hunting (895). The remaining 1.6 percent of the comments covered 14 different subjects relating to deer hunting.

The Commission has addressed the comments it received and has responded as follows:

- The six-round limitation proposed for 106.7(2) was not adopted.
- The language in 106.7(2)"c"(2) regarding shoulder stock or long-barrel modifications is revised to more closely follow Iowa Code section 481A.48(5).
- All other language defining firearm types in 106.7(2)"c" to "e" remains unchanged. The Commission believes that the language is accurate and consistent with the Iowa Code, and no sufficient alternative language has been proposed.
- The Commission notes that the ability to create a youth handgun season is beyond the authority of the Commission. Such a season is explicitly prohibited by Iowa Code section 481A.48(5).
- The Commission also received comments regarding 106.7(3) opposing the removal of handguns as an allowable method of take during the late muzzleloader season. In response, the proposal to strike "centerfire handguns" was not adopted.

Additionally, Item 14 has been added since publication of the Notice to amend subrule 106.10(2) to allow youth deer hunting licenses and tags to remain valid, if unfilled, in all subsequent deer hunting seasons. This amendment is added to enact a provision of 2018 Iowa Acts, House File 631, which was passed by the Iowa Legislature during the course of this rule making.

Adoption of Rule Making

This rule making was adopted by the Commission on May 16, 2018.

Fiscal Impact

This rule making should not result in any negative fiscal impact to the State. Deer hunting has been relatively constant in Iowa for many years, and none of the changes will substantially alter hunters' ability to purchase tags and pursue deer. The Commission expects a very minor increase in license sales with only 1,550 additional tags being available statewide (many of which will be free or low-cost ($10) tags). The Commission is not aware of any fiscal impact of this rule making on the general public, counties or local governments. A copy of the fiscal impact statement is available upon request from the Department of Natural Resources (Department).

Jobs Impact

After analysis and review of this rule making, the Commission has determined that there should not be a noticeable change overall in deer hunting in the state based upon this rule making. The adopted quotas are designed to keep deer numbers stable in the identified counties, and will not significantly alter license sales overall. The following types of jobs are positively impacted by deer hunting in Iowa generally and should see no noticeable change due to this rule making: hunting equipment retailers (firearms, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state. A copy of the impact statement is available upon request from the Department.

Waivers

This rule is subject to the waiver provisions of 561—Chapter 10. 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.

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 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 94.6(1) as follows:

94.6(1) *Zone license quotas.* Nonresident license quotas are as follows:

	~~Any-deer~~ Any-sex licenses		Mandatory Antlerless-only	Optional Antlerless-only
	All Methods	Bow		
Zone 1.	~~180~~ 90	~~63~~ 31	~~180~~ 90	
Zone 2.	~~180~~ 90	~~63~~ 31	~~180~~ 90	
Zone 3.	560	196	560	
Zone 4.	1280	448	1280	
Zone 5.	1600	560	1600	
Zone 6.	800	280	800	
Zone 7.	360	126	360	
Zone 8.	240	84	240	
Zone 9.	~~600~~ 880	~~210~~ 308	~~600~~ 880	
Zone 10.	~~200~~ 100	~~70~~ 35	~~200~~ 100	
Total	6000	~~2100~~ 2099	6000	3500

ITEM 2. Rescind rule 571—94.7(483A) and adopt the following **new** rule in lieu thereof:

571—94.7(483A) Method of take. Permitted weapons and devices vary according to the type of season.

94.7(1) *Bow season.* Bow season is as described in 571—subrule 106.7(1).

94.7(2) *Regular gun seasons.* Regular gun seasons are as described in 571—subrule 106.7(2).

94.7(3) *Muzzleloader seasons.* Muzzleloader seasons are as described in 571—subrule 106.7(3).

94.7(4) *Prohibited weapons and devices.* Prohibited weapons and devices are as described in 571—subrule 106.7(6).

94.7(5) *Discharge of firearms from roadway.* Discharge of firearms from roadway is as described in 571—subrule 106.7(7).

94.7(6) *Hunting from blinds.* Hunting from blinds is as described in 571—subrule 106.7(8).

ITEM 3. Amend subrule 106.1(6) as follows:

106.1(6) *January antlerless-deer-only licenses.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ Only antlerless-deer-only licenses, paid or free, will be issued for the January antlerless-deer-only season. Free antlerless-deer-only licenses shall be available only in the portion of the farm unit located in a county where paid antlerless-deer-only licenses are available during the January antlerless-deer-only season.

ITEM 4. Amend subrule 106.1(9) as follows:

106.1(9) ~~*Nonambulatory deer*~~ *Deer hunting licenses for nonambulatory persons.* The commission shall issue licenses in conformance with ~~2009 Iowa Acts, Senate File 187~~ Iowa Code section 483A.8C. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant is nonambulatory using the criteria listed in ~~2009 Iowa Acts, Senate File 187~~ Iowa Code section 483A.8C(4). A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½″ × 11″ letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 5. Amend subrule 106.2(5) as follows:

106.2(5) *January antlerless-deer-only season.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ Antlerless deer may be taken from January 11 through the third Sunday after that date.

ITEM 6. Amend subrule 106.4(5) as follows:

106.4(5) *January antlerless-deer-only season.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ The daily bag and possession limits and tagging requirements are the same as for the regular gun seasons.

ITEM 7. Amend subrule 106.6(4) as follows:

106.6(4) *January antlerless-deer-only licenses.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ Licenses for the January antlerless-deer-only season shall be available in the following counties: Allamakee, Appanoose, Clayton, and Wayne. Prior to December 15, a hunter may purchase up to three January antlerless-deer-only licenses. Beginning December 15, an unlimited number of paid antlerless-deer-only licenses may be purchased for the January antlerless-deer-only season until the antlerless-deer-only quota as described in 106.6(6) is met in the aforementioned counties. These licenses may be obtained regardless of any other paid any-sex or paid antlerless-deer-only licenses that may have been obtained.

ITEM 8. Amend subrule 106.6(6) as follows:

106.6(6) *Antlerless-deer-only licenses.* Paid antlerless-deer-only licenses will be available by county ~~for the 2017–2018 deer season~~ as follows:

County	Quota	County	Quota	County	Quota
Adair	1025	Floyd	0	Monona	850
Adams	1450	Franklin	0	Monroe	1950
Allamakee	~~3600~~ 3700	Fremont	400	Montgomery	750
Appanoose	~~1800~~ 2400	Greene	0	Muscatine	775
Audubon	0	Grundy	0	O'Brien	0
Benton	325	Guthrie	1950	Osceola	0
Black Hawk	0	Hamilton	0	Page	750
Boone	300	Hancock	0	Palo Alto	0
Bremer	~~650~~ 500	Hardin	0	Plymouth	0
Buchanan	300	Harrison	850	Pocahontas	0
Buena Vista	0	Henry	925	Polk	1350
Butler	~~0~~ 150	Howard	350	Pottawattamie	850
Calhoun	0	Humboldt	0	Poweshiek	300
Carroll	0	Ida	0	Ringgold	1600
Cass	400	Iowa	450	Sac	0
Cedar	775	Jackson	825	Scott	200
Cerro Gordo	0	Jasper	775	Shelby	0
Cherokee	0	Jefferson	1650	Sioux	0
Chickasaw	375	Johnson	850	Story	150
Clarke	2100	Jones	800	Tama	200
Clay	0	Keokuk	450	Taylor	1600
Clayton	~~3400~~ 3600	Kossuth	0	Union	1500
Clinton	400	Lee	1275	Van Buren	2000
Crawford	0	Linn	850	Wapello	1825
Dallas	1875	Louisa	675	Warren	2200
Davis	1600	Lucas	2200	Washington	750
Decatur	2200	Lyon	0	Wayne	~~2200~~ 2400

County	Quota	County	Quota	County	Quota
Delaware	800	Madison	~~2350~~ 2600	Webster	0
Des Moines	800	Mahaska	475	Winnebago	0
Dickinson	0	Marion	1650	Winneshiek	~~2275~~ 2375
Dubuque	825	Marshall	150	Woodbury	625
Emmet	0	Mills	750	Worth	0
Fayette	~~1800~~ 1900	Mitchell	0	Wright	0

ITEM 9. Amend subrule 106.7(1) as follows:

106.7(1) *Bow season.* Only longbow, compound, or recurve bows shooting broadhead arrows are permitted during the bow season. Arrows must be at least 18 inches long.

a. Crossbows, as described in 106.7(1)*"b,"* may be used during the bow season in the following two situations:

(1) By persons with certain afflictions of the upper body as provided in ~~571—15.5(481A)~~ 571—15.22(481A); and

(2) By persons over the age of 70 with an antlerless-deer-only license as provided in Iowa Code section ~~483A.8A~~ 483A.8B.

b. Crossbow means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire a bolt, arrow, or quarrel by the release of the bow string, which is controlled by a mechanical trigger and a working safety. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead.

~~*b.*~~ *c.* No explosive or chemical ~~devices~~ device may be attached to ~~the~~ any arrow, broadhead or bolt ~~(if used with a crossbow)~~.

ITEM 10. Amend subrule 106.7(2) as follows:

106.7(2) *Regular gun seasons.* Only 10-, 12-, 16-, and 20-gauge shotguns shooting single slugs, ~~and~~ straight wall cartridge rifles~~,~~ as described in 106.7(2)*"a"* and *"b,"* muzzleloaders as described in 106.7(3), and handguns as described ~~more fully in 106.7(3), will be permitted for taking~~ in 106.7(2)*"c"* to *"e"* shall be used to take deer during the regular gun seasons.

a. Legal straight wall cartridge rifle calibers for hunting deer in Iowa must meet all of the following criteria:

(1) Be center-fired;

(2) Be straight-walled;

(3) Have a diameter of 0.357 inches to 0.500 inches;

(4) Have a case length no greater than 1.800 inches; and

(5) For rimless cartridges, have a case length of no less than 0.850 inches, and for rimmed cartridges, have a case length of no less than 1.285 inches.

b. Notwithstanding 106.7(2)*"a,"* the following calibers are considered legal straight wall cartridge rifle calibers:

(1) .375 Winchester;

(2) .444 Marlin; or

(3) .45-70 Gov't.

c. Legal centerfire handguns for hunting deer in Iowa must meet all of the following criteria:

(1) Have a 4-inch minimum barrel length;

(2) Have no shoulder stock or long barrel modifications;

(3) Be designed to be shot with one hand using a pistol grip and have either:

1. A cylinder of several chambers brought successively into line with the barrel and discharged with the same hammer; or

2. A magazine feeding a single chamber integral with the barrel and using either the action of a slide or a bolt action to eject the casing, or having a break action capable of only holding one round.

d. Legal centerfire handgun calibers for hunting deer in Iowa must meet all of the following criteria:

(1) Be center-fired;

(2) Be straight-walled;

(3) Have a diameter of 0.357 inches to 0.500 inches;

(4) Have a case length no greater than 1.800 inches; and

(5) For rimless cartridges, have a case length of no less than 0.850 inches, or for rimmed cartridges, have a case length of no less than 1.285 inches.

e. Notwithstanding 106.7(2)*"d,"* the following calibers are considered legal centerfire handgun calibers:

(1) .375 Winchester;

(2) .444 Marlin; or

(3) .45-70 Gov't.

ITEM 11. Amend subrule 106.7(3) as follows:

106.7(3) *Muzzleloader seasons.* Only muzzleloading rifles and muzzleloading pistols will be permitted for taking deer during the early muzzleloader season. During the late muzzleloader season, deer may be taken with a muzzleloading rifle, muzzleloading pistol, centerfire handgun, crossbow as described in 106.7(1)*"b,"* or bow as described in 106.7(1).

a. Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 caliber and not larger than .775 caliber, shooting single projectiles only.

~~*b.* Centerfire handguns must be .357 caliber or larger shooting straight wall cartridges propelling an expanding-type bullet (no full-metal jacket) and complying with all other requirements provided in Iowa Code section 481A.48. In addition, centerfire handguns must be designed to be shot with one hand using a pistol grip and have either:~~

~~(1) A cylinder of several chambers brought successively into line with the barrel and discharged with the same hammer; or~~

~~(2) A magazine feeding a single chamber integral with the barrel and using either the action of a slide or a bolt action to eject the casing, or having a break action capable of only holding one round.~~

~~*c.*~~ *b.* Muzzleloading pistols must be .44 caliber or larger, ~~shooting~~ shoot single projectiles only, and have a 4-inch minimum barrel length.

~~*d.* Crossbow means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire a bolt, arrow, or quarrel by the release of the bow string, which is controlled by a mechanical trigger and a working safety. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead.~~

~~*e.* Legal handgun calibers for hunting deer in Iowa are listed in the department of natural resources' hunting and trapping regulations booklet published each summer and adopted by reference herein. Centerfire handguns and black powder handguns must have a 4-inch minimum barrel length, and centerfire handguns shall not have any parts that extend beyond the back of the pistol grip. There can be no shoulder stock or long-barrel modifications to any handgun.~~

ITEM 12. Amend subrule 106.7(5) as follows:

106.7(5) *January antlerless-deer-only season.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ Bows, crossbows, shotguns, muzzleloaders, and handguns as described in this rule, and centerfire rifles .24 caliber or larger, may be used during the January antlerless-deer-only season.

ITEM 13. Amend subrule 106.7(6) as follows:

106.7(6) *Prohibited weapons and devices.* The use of dogs, domestic animals, bait, rifles other than muzzleloaded or straight wall cartridge as provided in 106.7(2), 106.7(3), 106.7(5), and 106.10(5), handguns except as provided in 106.7(2) and ~~106.7(3)~~ 106.7(5), crossbows except as provided in 106.7(1) and 106.7(3), automobiles, aircraft, or any mechanical conveyance or device, including electronic calls, is prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Bait" means grain, fruit, vegetables, nuts,

hay, salt, mineral blocks, or any other natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife. Bait does not include food placed during normal agricultural activities. "Paraplegic" means an individual with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord. It shall be unlawful for a person, while hunting deer, to carry or have in possession a rifle except as provided in 106.7(2), 106.7(3), 106.7(5), and 106.10(5). A person in possession of a valid permit to carry weapons may carry a handgun while hunting. However, only ~~the~~ handguns ~~listed~~ as described in ~~106.7(3) shall~~ 106.7(2) may be used to hunt deer and only when a handgun is a lawful method of take.

ITEM 14. Amend subrule 106.10(2) as follows:

106.10(2) *Season dates.* Deer of either sex may be taken statewide for 16 consecutive days beginning on the third Saturday in September. A person who is issued a youth deer hunting license and does not take a deer during the youth deer hunting season may use the deer hunting license and unused tag during ~~the early muzzleloader, late muzzleloader, and one of the shotgun~~ any subsequent deer seasons. The license will be valid for the type of deer and in the area specified on the original license. The youth must follow all other rules specified in this chapter for each season, including method of take. ~~A youth hunting in one of the other seasons must obtain a hunting license and habitat stamp or hunt with a licensed adult if required by Iowa Code section 483A.24.~~ If the tag is filled during ~~one~~ any of the seasons, the license will not be valid in subsequent seasons.

[Filed 5/16/18, effective 7/11/18]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/6/18.

ARC 3832C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to wild turkey hunting

The Natural Resource Commission hereby amends Chapter 98, "Wild Turkey Spring Hunting," and Chapter 99, "Wild Turkey Fall Hunting," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455A.5(6), 481A.38, 481A.39 and 481A.48.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 481A.38, 481A.39 and 481A.48(1).

Purpose and Summary

Chapter 98 regulates spring wild turkey hunting for both residents and nonresidents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation tag requirements.

Several changes to Chapter 98 are made. First, because the shotgun shot sizes approved for hunting wild turkey are out of date with shot types currently available on the market, the ammunition lists for both residents and nonresidents are updated.

Second, the start of the first shotgun-and-archery season for spring wild turkey hunting is pushed back by several days and permanently established in narrative form ("second Monday of April").

Third, the youth-only season is reduced from nine days to three days because, pursuant to Iowa Code section 483A.7(4), youth are now allowed to hunt with an unfilled youth license and tag during any other established wild turkey season. In other words, this reduction does not limit youth opportunity and enables an earlier start to the first shotgun-and-archery season. Furthermore, the youth-only season had long been three days but was expanded in 2011 to afford youth more opportunity. Subsequently, in 2014 the Iowa Code was amended to allow unfilled youth licenses and tags to be valid in any other season, rendering the need for a longer youth-only season unnecessary, as previously noted. Thus, this amendment is a return to the original youth-only, three-day season.

Finally, references to the Iowa Code and to Chapter 98 are updated to reflect current law.

Chapter 99 regulates fall wild turkey hunting for residents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation tag requirements. (It should be noted that there is no fall wild turkey season for nonresidents in Iowa, except for nonresidents who are under 21 years old and have a severe physical disability or have been diagnosed with a terminal illness, as set forth in Iowa Code section 483A.24(12) and subrule 99.2(4).)

An amendment to Chapter 99 adjusts the approved shotgun shot sizes for hunting wild turkeys to reflect the materials and sizes available on the current market. This amendment is identical to that in Chapter 98. In addition, an Iowa Code reference is updated to reflect current 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 11, 2018, as **ARC 3729C**. A public hearing was held on May 1, 2018, at 12 noon in Conference Room 4E, Wallace State Office Building, Des Moines, Iowa. No one attended the public hearing. Two comments were received during the open comment period. One commenter was opposed to shortening the youth season, and one commenter was supportive of that proposed change. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on May 16, 2018.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, the Commission does not expect any impact to private sector jobs as a result of this rule making, nor does the Commission expect any impact to wild turkey hunting participation or license sales. The following types of jobs are positively impacted by turkey hunting in Iowa generally and should see no noticeable change due to this rule making: hunting equipment retailers (firearms, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state. A copy of the impact statement is available upon request from the Department.

Waivers

This rule is subject to the waiver provisions of 561—Chapter 10. 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.

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 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 98.2(1) as follows:

98.2(1) *Permitted weapons.* Wild turkey may be taken in accordance with the type of license issued as follows:

a. Combination shotgun-or-archery license. Wild turkey may be taken by shotgun or muzzleloading shotgun not smaller than 20-gauge and shooting only shot sizes ~~number 2 or 3 nontoxic shot or~~ number ~~4, 5, 6, 7½, or~~ through 8 lead or nontoxic shot; and by bow and arrow as defined in paragraph 98.2(1)*"b."* A person shall not have ~~shot shells~~ shotshells containing shot of any size other than ~~number 2 or 3 nontoxic shot or~~ number ~~4, 5, 6, 7½, or~~ through 8 lead or nontoxic shot on the person while hunting wild turkey.

b. Archery-only license. Except for crossbows for persons with certain afflictions of the upper body, as provided in ~~571—15.5(481A)~~ 571—15.22(481A), only longbow, compound, or recurve bows shooting broadhead arrows are permitted. Blunthead arrows with a minimum diameter of 9/16 inch may also be used. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow, broadhead, or blunthead.

ITEM 2. Amend paragraph **98.2(4)"a"** as follows:

a. Combination shotgun-or-archery licenses. Consecutive seasons are 4, 5, 7, and 19 days, respectively, with the first season beginning on the second Monday ~~closest to~~ of April ~~15~~. These seasons shall be designated as seasons 1, 2, 3 and 4, respectively.

ITEM 3. Amend subrule 98.6(2) as follows:

98.6(2) *Youth season dates.* The youth turkey hunting license shall be valid during the ~~nine~~ three days immediately before the first turkey season. A person who is issued a youth spring wild turkey hunting license and does not take a wild turkey during the youth spring wild turkey hunting season may use the wild turkey hunting license and unused tag during any remaining spring wild turkey hunting season in the year in which the youth license was issued.

ITEM 4. Amend subrule 98.9(5) as follows:

98.9(5) *Special licenses.* The commission shall issue licenses in conformance with Iowa Code section ~~483A.24(10)~~ 483A.24(12) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½″ × 11″ letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 5. Amend subrule 98.12(1) as follows:

98.12(1) *Permitted weapons.* Wild turkey may be taken only with shotguns and muzzleloading shotguns not smaller than 20-gauge and shooting only shot sizes ~~2 or 3 nontoxic shot or~~ number ~~4, 5, 6, 7½, and~~ through 8 lead or nontoxic shot. No person may have ~~shot shells~~ shotshells containing shot

of any size other than ~~2 or 3 nontoxic shot or~~ number ~~4, 5, 6, 7½, or~~ through 8 lead or nontoxic shot on the person while hunting wild turkey. Except for crossbows for persons with certain afflictions of the upper body, as provided in ~~571—15.5(481A)~~ 571—15.22(481A), only longbow, compound, or recurve bows shooting broadhead arrows are permitted. Blunthead arrows with a minimum diameter of 9/16 inch may also be used. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow, broadhead, or blunthead.

ITEM 6. Amend subrule 99.2(4) as follows:

99.2(4) *Special licenses.* The commission shall issue licenses in conformance with Iowa Code section ~~483A.24(10)~~ 483A.24(12) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½″ × 11″ letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 7. Amend subrule 99.8(1) as follows:

99.8(1) *Permitted weapons.* In accordance with the type of license issued, wild turkey may be taken by shotgun and muzzleloading shotgun not smaller than 20-gauge and shooting only shot sizes ~~2 or 3 nontoxic shot or~~ number ~~4, 5, 6, 7½, or~~ through 8 lead or nontoxic shot; and by longbow, recurve, or compound bow shooting broadhead or blunthead (minimum diameter 9/16 inch) arrows only. No person may carry or have in possession shotshells containing shot of any size other than ~~2 or 3 nontoxic shot or~~ number ~~4, 5, 6, 7½, or~~ through 8 lead or nontoxic shot while hunting wild turkey. Arrows with chemical or explosive pods are not permitted.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/6/18.

ARC 3833C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to childhood lead poisoning prevention program

The Department of Public Health hereby amends Chapter 72, "Childhood Lead Poisoning Prevention Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.102.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 135.101 to 135.105.

Purpose and Summary

Chapter 72 outlines the rules and processes to establish local childhood lead poisoning prevention programs and establishes a funding formula. The amendment aligns the rules more closely to the original enabling legislation by removing additional requirements currently included in the rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3709C**. The Department received one public comment that was related to the implementation of the local childhood lead poisoning grant program. This public comment was outside of the scope for the rules in Chapter 72; therefore, the Department did not make any changes to the proposed amendment.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on May 9, 2018.

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 11, 2018.

The following rule-making action is adopted:

Amend rules 641—72.1(135) to 641—72.3(135) as follows:

641—72.1(135) Definitions.

"Approved program" means a program that meets the requirements of subrule 72.2(3) and has been approved by the department.

~~*"Capillary"* means a blood sample taken from the finger or heel for lead analysis.~~

~~*"Certified elevated blood lead (EBL) inspection agency"* means an agency that has met the requirements of 641—70.5(135) and has been certified by the department.~~

~~*"Certified elevated blood lead (EBL) inspector/risk assessor"* means a person who has met the requirements of 641—70.5(135) for certification or interim certification and who has been certified by the department.~~

~~*"Chelation"* means the administration of medication that binds lead so that it can be removed from the body.~~

"Department" means the Iowa department of public health.

~~*"Elevated blood lead (EBL) child"* means any child who has had one venous blood lead level greater than or equal to 20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.~~

~~*"Elevated blood lead (EBL) inspection"* means an inspection to determine the sources of lead exposure for an elevated blood lead (EBL) child and the provision within ten working days of a written report explaining the results of the investigation to the owner and occupant of the residential dwelling or child-occupied facility being inspected and to the parents of the elevated blood lead (EBL) child.~~

~~*"Elevated blood lead (EBL) inspection agency"* means an agency that employs or contracts with individuals who perform elevated blood lead (EBL) inspections. Elevated blood lead (EBL) inspection agencies may also employ or contract with individuals who perform other lead-based paint activities.~~

~~*"Laboratory"* means a laboratory satisfactorily participating in the blood lead analysis proficiency testing program of the Centers for Disease Control and Prevention/University of Wisconsin.~~

~~*"Lead-based paint hazard"* means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard as defined in 641—Chapter 70.~~

"Local board" means a county, district, or city board of health.

"Local childhood lead poisoning prevention program" means a program in which the services listed in subrule 72.2(3) are provided by agencies located in a community.

~~*"Venous"* means a blood sample taken from a vein in the arm for lead analysis.~~

641—72.2(135) Approved programs.

72.2(1) ~~An individual~~ A local board of health representing a geographic area with a population of at least 15,000 is eligible to apply for status as an approved program pursuant to Iowa Code section 135.104, which sets forth the eligibility requirements contained in the application. ~~A group of local boards of health representing a geographic area with a total population of at least 15,000 may apply for status as an approved program by designating an individual local board of health to apply on behalf of the group.~~

72.2(2) A local board wishing to apply for status as an approved program shall make application to the Iowa department of public health ~~by December 1 of each year, beginning on December 1, 2003, for the program year of July 1, 2004, through June 30, 2005. An individual local board of health may submit or be included in only one application for status as an approved program. An application for status as an approved program must follow~~ in the format which will be made available from the Lead Poisoning Prevention Program, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. All materials submitted as part of the application for status as an approved program are public records.

~~**72.2(3)** A local board applying for status as an approved program must demonstrate that it is prepared to provide the following activities and authority immediately upon the receipt of funding. The application submitted by a local board of health shall specify the name of the agency and of the individual staff member who will be responsible for carrying out each of the following activities:~~

~~*a.* A public education program about lead poisoning and the dangers of lead poisoning to children.~~

~~*b.* An effective outreach effort to ensure the availability of services in the geographic area to be served.~~

~~*c.* A blood lead testing program for children, with an emphasis on children less than six years of age. Blood lead testing should be done in conformance with the department's statewide blood lead testing plan, available on request from the department.~~

~~*d.* Provision of laboratory services, in conformance with the above-cited reference.~~

~~*e.* A program to ensure that children identified with blood lead levels greater than or equal to 10 micrograms per deciliter receive services appropriate for the blood lead level including, but not limited to, confirmatory venous blood lead testing, follow-up capillary or venous blood lead testing, nutrition counseling, a home nursing visit, a developmental evaluation, a medical evaluation, and chelation.~~

~~*f.* Elevated blood lead (EBL) inspections in dwelling units associated with an elevated blood lead (EBL) child. Elevated blood lead (EBL) inspections shall be conducted by certified elevated blood lead~~

~~(EBL) inspector/risk assessors employed by or under contract with a certified elevated blood lead (EBL) inspection agency.~~

~~*g.* Follow-up inspections to ensure that lead-based paint hazards identified in dwelling units associated with an elevated blood lead (EBL) child are corrected.~~

~~*h.* Adoption and enforcement of a local code which provides adequate authority to require control of lead-based paint hazards found in dwelling units associated with an elevated blood lead (EBL) child.~~

~~*i.* Development of a community coalition to address childhood lead poisoning prevention.~~

~~*j.* Management of blood lead and case management data using the Strategic Tracking of Elevated Lead Levels and Remediation (STELLAR) program.~~

~~*k.* A plan of intent to continue the program on a maintenance basis after the grant is discontinued.~~

72.2(3) The program administered by a local board of health or city receiving funding for an approved childhood lead poisoning prevention grant program shall include:

a. A public education program about lead poisoning and dangers of lead poisoning to children.

b. An effective outreach effort to ensure availability of services in the predicted geographic area.

c. A screening program for children, with an emphasis on children less than six years of age.

d. Access to laboratory services for lead analysis.

e. A program of referral of identified children for assessment and treatment.

f. An environmental assessment of suspect dwelling units.

g. Surveillance to ensure correction of the identified hazardous settings.

h. A plan of intent to continue the program on a maintenance basis after the grant is discontinued.

~~**72.2(4)** By January 1 of each year, the department shall notify each local board of health that has applied for status as an approved program whether the local board of health has been granted status as an approved program, beginning January 1, 2004, for the program year of July 1, 2004, through June 30, 2005.~~

~~**72.2(5)** A county that receives childhood lead poisoning prevention funding from the department for the program year of July 1, 2002, through June 30, 2003, shall have status as an approved program for the program year of July 1, 2003, through June 30, 2004. Unless the local board of health requests otherwise by March 1, 2003, the contractors that provide childhood lead poisoning prevention services in the county for the program year of July 1, 2002, through June 30, 2003, shall continue to serve as contractors for the program year of July 1, 2003, through June 30, 2004.~~

641—72.3(135) ~~Level~~ Reallocation of funding.

~~**72.3(1)** The department shall develop a formula to allocate funding to approved programs. In the development of the formula, the department shall consider factors that affect the burden of childhood lead poisoning in a geographic area including, but not limited to, the number of children under the age of six years, the percentage of housing built before 1950, the percentage of children in poverty, and the demonstrated prevalence of childhood lead poisoning in the geographic area to be served.~~

~~**72.3(2)** The department shall allocate state funds appropriated to the department for this program according to this formula. Federal funds available to the department for local childhood lead poisoning prevention programs shall be allocated to approved programs according to this formula unless a different method is mandated by the federal agency providing the funding.~~

~~**72.3(3)** The approved program shall provide one dollar for every three dollars of state funding awarded for each of the first two years of funding and then one dollar for each dollar of state funding awarded for the third and subsequent years of funding. Local contributions may be in the form of in-kind matching.~~

~~**72.3(4)** Matching requirements for federal funding allocated to approved programs shall be as mandated by the federal agency providing the funding.~~

~~**72.3(5)** On January 1, April 1, and June 1~~ of each year, the department shall ask each approved program to estimate the amount of funds that the approved program has been awarded but will not use.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The department may ~~allocate~~ reallocate these funds to approved programs with demonstrated special needs for childhood lead poisoning prevention services.

[Filed 5/9/18, effective 7/11/18]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/6/18.

ARC 3834C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to trauma registry

The Department of Public Health hereby amends Chapter 136, "Trauma Registry," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147A.27.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147A.26.

Purpose and Summary

The purpose of the amendments is to provide clarification. The amendments make the following changes:

- Remove the definition of "ICD10."
- Add a definition for "health care providers."
- Update the definition of "trauma patient."
- Add a definition for "trauma survey team."
- Update references to the Iowa Trauma Patient Data Dictionary (January 2017).
- Update the website address for the Iowa Trauma Patient Data Dictionary (January 2017).
- Remove the word "elements" from the phrase "data elements."
- Clarify who is authorized to review reported data for quality assurance.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3706C**. 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 9, 2018.

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 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—136.1(147A) as follows:

641—136.1(147A) Definitions. For the purposes of these rules, the following definitions shall apply:

"Cases" means trauma patients that meet the trauma registry inclusion criteria.

"Department" means the Iowa department of public health.

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

"Health care providers" for the purpose of this chapter includes licensed physicians, nurse practitioners, physician assistants, and registered nurses.

~~*"ICD10"* means International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM).~~

"Inclusion criteria" means criteria determined by the department and adopted by reference to determine which trauma patients are to be included in the trauma registry.

"Reportable patient data" means data ~~elements~~ and definitions determined by the department and adopted by reference to be reported to the trauma registry on trauma patients meeting the inclusion criteria.

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

"Trauma patient" means a victim of an external cause of injury that results in major or minor tissue damage or destruction caused by intentional or unintentional exposure to thermal, mechanical, electrical or chemical energy, or by the absence of heat or oxygen~~.~~ as defined in the "Iowa Trauma Patient Data Dictionary" as established in 136.2(1)*"a."*

"Trauma registry" means the data repository operated by the department to collect and analyze reportable patient data on the incidence, severity, and causes of trauma, including the central registry for brain and spinal cord injuries (~~IAC~~ rule 641—21.1(135)) and farm-related injuries.

"Trauma survey team" means a group of health care providers contracted by the department to assist in verifying trauma care facilities' compliance with trauma criteria adopted by reference in 641—subrule 134.2(3).

ITEM 2. Amend rule 641—136.2(147A) as follows:

641—136.2(147A) Trauma registry.

136.2(1) Adoption by reference.

a. "Iowa Trauma Patient Data Dictionary" (January 2017) is incorporated by reference for inclusion criteria and reportable patient data to be reported to the trauma registry. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.

b. "Iowa Trauma Patient Data Dictionary" (January 2017) is available through the Iowa Department of Public Health, Bureau of Emergency and Trauma Services (BETS), Lucas State Office Building, Des Moines, Iowa 50319-0075, or the BETS ~~Web site (http://idph.iowa.gov/BETS)~~ website idph.iowa.gov/Portals/1/userfiles/43/Trauma_Patient_Registry_Data_Dictionary.pdf.

136.2(2) A trauma care facility shall report data as follows:

a. Trauma care facilities shall submit reportable patient data identified in 136.2(1) electronically to the department. Data shall be submitted in a format approved by the department.

b. Trauma care facilities that enter required trauma data ~~elements~~ identified in ~~136.2(1)~~ 136.2(1)*"a"* directly into the state registry shall, at a minimum, enter 80 percent of cases within 60 days of a patient's discharge. Within 120 days of a patient's discharge, 100 percent of cases shall be entered into the registry.

c. Trauma care facilities that submit required trauma data ~~elements~~ identified in ~~136.2(1)~~ 136.2(1)*"a"* via upload shall, at a minimum, submit 80 percent of cases discharged within the previous 60 days of the first business day of every even-numbered calendar month. Within 120 days of a patient's discharge or next scheduled data upload, 100 percent of cases shall be entered into the registry.

136.2(3) to **136.2(5)** No change.

136.2(6) Quality assurance of reported data.

a. For the purpose of ensuring the completeness and quality of reportable patient data, the department or ~~authorized representative~~ its designated trauma survey team may examine ~~all or part of the patient's~~ medical records ~~as necessary to verify or clarify all reportable patient~~ to validate the accuracy of data submitted by a trauma care facility.

b. Review of ~~a patient's~~ medical ~~record~~ records by the department or its designated trauma survey team shall be scheduled in advance with the trauma care facility and completed in a timely manner.

c. The director, pursuant to 641—Chapter 178, may grant a variance from the requirements of rules adopted under this chapter for a trauma care facility that meets the requirements of this chapter.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/6/18.

ARC 3835C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to perinatal health care

The Public Health Department hereby amends Chapter 150, "Iowa Regionalized System of Perinatal Health Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.11(27).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.11(27).

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Purpose and Summary

The previously adopted Iowa criteria define perinatal levels of care from Level I to Level III, based on 1970s studies that demonstrated timely access to risk-appropriate neonatal and obstetric care could reduce perinatal mortality. The rules in Chapter 150 outline the criteria standards for hospitals to meet the identified level of care. The amendments update the levels of care and associated criteria, based on recommendations from the American Academy of Pediatrics and the American Congress of Obstetricians and Gynecologists. The amendments introduce four-level uniform designations of maternal care that are distinct from the four levels of neonatal care, and develop standardized definitions and nomenclature for hospitals that provide perinatal care.

The amendments clarify the terms for members of and the structure of the Perinatal Guidelines Advisory Committee; clarify the role of the statewide perinatal care program to include level status verification; and describe a process for level status verification to protect the public and ensure that, when a hospital represents itself at a particular level of perinatal care, the hospital is capable of providing that care. In addition, a requirement is added for Committee members, on-site review teams, and statewide perinatal program members to sign confidentiality agreements to protect information obtained in hospital applications and reviews for level designation verification.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3708C**. The Department received comments from two persons, who requested that minor clarifications to terminology be made at several points in the chapter and that a definition of "reverification" be added.

The Department has incorporated the following changes from the Notice, based on the comments and Department review:

1. The word "program" has been changed to "team" in the definition of "on-site verification survey" in rule 641—150.2(135,77GA,ch1221).
2. A definition of "reverification" has been added to rule 641—150.2(135,77GA,ch1221).
3. Subrule 150.6(1) has been revised to include a new paragraph "c," which reads as follows:

"*c*. Upon receipt of an application from a hospital that is requesting to change to a higher level of maternal or neonatal care, the department will request and review copies of the results of the last site visit to the hospital by the statewide perinatal team or request a site visit. The results of the site visit along with the application will be shared with the statewide perinatal team and the perinatal guidelines advisory committee to determine if all requirements are met. The committee recommendations will be sent to the department, which will notify the hospital if its application is approved or denied. If the application is denied, the applicant will be informed of the applicant's right to appeal the department's decision."

4. The word "midwives" has been changed to "certified nurse-midwives" in subparagraphs 150.7(1)"c"(1) and 150.7(2)"c"(1).
5. The reference to "nurse" has been changed to "registered nurse" in paragraph 150.9(1)"e." In addition, the wording of the paragraph was revised to read as follows:

"*e*. *Nursing personnel.* At a Level I neonatal care hospital, a registered nurse assigned to the neonatal service has nursing orientation to and demonstrates competency in the care of a neonate."

6. The reference to "screening for tuberculosis and rubella" has been changed to "screening per department recommendations for health care providers" in subparagraph 150.9(1)"h"(1), which now reads as follows:

"(1) Each Level I neonatal care hospital will establish written policies and procedures for assessing the health of personnel assigned to the perinatal care services and of those who have significant contact with the newborn. The policies and procedures will include restricting contact with patients when necessary and screening per department recommendations for health care providers. Routine culturing of specimens obtained from personnel is not useful, although selective culturing may be of value when a pattern of infection is suspected."

7. The word "in" has been changed to "within" in subparagraph 150.9(3)"b"(5).

Adoption of Rule Making

This rule making was adopted by the State Board of Health on May 9, 2018.

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 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rules 641—150.1(135,77GA,ch1221) to 641—150.3(135,77GA,ch1221) as follows:

641—150.1(135~~,77GA,ch1221~~) Purpose and scope. Hospitals within the state shall determine whether to participate in Iowa's regionalized system of perinatal health care and shall select the hospital's level of participation in the regionalized system. A hospital having determined to participate in the regionalized system shall comply with the rules appropriate to the ~~level~~ levels of participation for maternal care and neonatal care selected by the hospital. Maternal levels of designation and neonatal levels of designation are evaluated separately, and a hospital may have a level of designation for maternal care that is different from the level of designation for neonatal care; however, a pregnant woman should be cared for at the hospital that best meets both her and her newborn infant's needs.

Iowa's regionalized system of perinatal health care helps practitioners in rural Iowa to rapidly access specialty services for their patients even though such services may not exist in the local community. This is predicated on several factors, including the willingness of certain hospitals in moderate-to-large Iowa cities to provide specialty services and the presence of a functional system of patient transportation. These rules address how participating Iowa hospitals relate to the regionalized system and suggest a level of functioning which should identify the role each participating hospital plays in the system.

The following rules present a description of the levels of care among Iowa perinatal hospitals. The levels are as follows: ~~Level I hospital, Level II hospital, Level II regional center, Level II regional neonatology center, and Level III center.~~ maternal levels of care, which include Level I maternal care hospital, Level II maternal care hospital, Level III maternal care hospital and Level IV maternal care hospital, and neonatal levels of care, which include Level I neonatal care hospital, Level II neonatal

care hospital, Level III neonatal care hospital and Level IV neonatal care hospital. ~~The department is very much aware of~~ Due to the need for organization of limited resources in a rural state~~. Accordingly~~, the rules are designed to encourage and support the presence of ~~a Level II regional center in areas not populous enough to support a Level III center.~~ Level II and Level III maternal care and neonatal care hospitals in areas not populous enough to support a Level IV maternal care and neonatal care hospital.

~~These~~ The rules are not meant to hold Iowa hospitals and Iowa perinatal professionals to an impractical ideal. ~~Although the~~ The rules ~~are clearly not intended to serve as standards, they do~~ specify particulars ~~when feasible~~ for a tiered provision of care on the basis of functional capabilities, based on national recommendations from the American Academy of Pediatrics and the American Congress of Obstetricians and Gynecologists. ~~For example, specification of a designated level of care for a hospital should be clearly evident from the descriptions. Levels of care are designated by the functional capacity of the hospital. Thus, it may be possible to have a number of Level II hospitals or Level III centers in one city.~~

The primary purpose of the level of care designation is to ensure Iowa perinatal patients receive appropriate maternal and neonatal care as close to their homes as possible. ~~In an ideal situation, no community hospital would be more than 50 miles from a perinatal center. Unfortunately, Iowa's low population density precludes this. Accordingly, Iowa developed a network of regional centers.~~

The ~~further intent of these~~ rules ~~is to~~ provide a framework to ensure that, when a participating hospital ~~markets~~ represents itself at a particular level of perinatal care, ~~it~~ the hospital is capable of providing that care. The public is entitled to know the level of functioning of a hospital. The rules provide the framework ~~to be used in~~ for defining and evaluating the level of perinatal services ~~being~~ offered by a hospital.

641—150.2(135~~,77GA,ch1221~~) Definitions. For the purpose of these rules, the following definitions shall apply:

"Categorization" means a preliminary determination by the department that a hospital is capable of providing ~~perinatal care at Level I, Level II, Level II regional, Level II regional neonatology center, or Level III care capabilities~~ maternal care and neonatal care at Level I, Level II, Level III, or Level IV.

"Certificate of verification" means a document awarded by the department that identifies a hospital's level of ~~perinatal care~~ maternal care and neonatal care at Level I, Level II, Level III, or Level IV and the term of verification at that level.

"Department" means the Iowa department of public health.

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

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

"Late preterm" means that a newborn infant is born between 34 0/7 and 36 6/7 weeks' gestation.

"Levels-of-care assessment tool" or *"tool"* means a tool to assess the maternal and neonatal risk-appropriate care, using the minimum information necessary to identify a hospital's maternal level of care based on criteria by the American Congress of Obstetricians and Gynecologists/Society for Maternal-Fetal Medicine and a hospital's neonatal level of care based on criteria by the American Academy of Pediatrics. The tool will be chosen by the department in consultation with the perinatal guidelines advisory committee.

"Neonate" means a newborn infant, up to 28 days of life.

"On-site verification survey" means an on-site survey conducted by the department's statewide perinatal care ~~program~~ team based at the University of Iowa hospitals and clinics or by a survey team of members (medical experts) contracted to assess a hospital's ability to meet the level of designation selected by the hospital.

"Perinatal" means the five months before and one month after birth.

~~*"Perinatal advisory committee"* means the committee that provides review and counsel to the statewide perinatal care program based at the University of Iowa hospitals and clinics.~~

"Perinatal center" means a medical facility capable of providing complex obstetric, fetal and neonatal care.

"Perinatal guidelines advisory committee" means the committee that provides consultation to the department regarding these rules for the regionalized system of perinatal health care, reviews and updates Guidelines for Perinatal Services and provides review and counsel to the statewide perinatal care program.

"Prenatal" means during pregnancy.

"Readily available" means on site or at a closely related institution by prearranged consultative agreement.

"Regionalized system of perinatal health care" means the department's program for ~~the provision of appropriate perinatal care as close to patients' homes as possible~~ designating regional perinatal health care services at a verified level of care, based on a hospital's functional capabilities. Levels of care designations are stratified in an increasing order of intensity and complexity for both maternal health care and neonatal health care.

"Regionalized system of perinatal health care coordinator" means the department's program manager for the regionalized system of perinatal health care.

"Respiratory distress" means tachypnea (respiratory rate of 60 or more per minute), grunting, tugging, retracting, nasal flaring, or cyanosis. Any or all of these may constitute respiratory distress in a neonate.

"Reverification" means the process of periodic review, conducted at least every three years, to certify that a hospital has maintained its designated level of care in accordance with criteria established under these rules for hospitals that are participating in the regionalized system of perinatal health care.

"Statewide perinatal ~~health~~ care program" means ~~the educational team based at the University of Iowa hospitals and clinics and retained by the department of public health~~ a program consisting of the regionalized system of perinatal health care coordinator, the statewide perinatal care team contracted by the department, and the regionalized system of perinatal health care as defined in these rules.

"Statewide perinatal care team" means the educational team based at the University of Iowa hospitals and clinics and contracted by the department to support the regionalized system of perinatal health care and to provide services to decrease perinatal morbidity and mortality.

"Verification" means a process by which the department certifies a hospital's capacity to provide perinatal care in accordance with criteria established ~~for Level I hospitals, Level II hospitals, Level II regional centers, Level II regional neonatology centers, and Level III centers~~ under these rules for hospitals that are participating in the regionalized system of perinatal health care.

641—150.3(135~~,77GA,ch1221~~) Perinatal guidelines advisory committee.

150.3(1) *Purpose.* The director shall appoint an advisory committee to consult with the department in its development and maintenance of the regionalized system of perinatal health care~~. This advisory committee should not be confused with the perinatal advisory committee that provides~~ and to provide review and counsel to the statewide perinatal care program.

150.3(2) *Appointment.* Appointments to the committee shall be made by the director.

a. Each appointment shall be for a term of three years, commencing on July 1.

b. No member shall serve more than three consecutive terms, unless this provision is waived by the director.

c. In order to ensure that one third of the committee rotates each year, staggered terms shall be initiated in June. For terms expiring during the calendar year, appointments and reappointments shall be staggered, resulting in a committee with approximately one third of the terms of membership expiring each year.

~~*a.*~~ *d.* Members of the perinatal guidelines advisory committee shall include:

(1) ~~a~~ A representative from each of the following organizations that chooses to designate a nominee to the director:

1. Iowa ~~Hospitals and Health Systems~~ Hospital Association;
2. Iowa Medical Society;
3. Iowa Osteopathic Medical Association;
4. Iowa Chapter, American Academy of Pediatrics;

5. Iowa Section, American ~~College~~ Congress of Obstetricians and Gynecologists;

6. Iowa Academy of Family Physicians;

7. Iowa Nurses Association;

8. Iowa Association of Neonatal Nurses;

9. Iowa Association of Women's Health, Obstetrical and Neonatal Nurses~~; and Iowa Chapter, Great Plains Organization for Perinatal Health Care~~.

(2) The director or designee of the statewide perinatal care team.

(3) One designated representative each from a Level I, Level II, Level III, and Level IV hospital (either maternal or neonatal). Hospital representatives in this category will be appointed based on recommendations made by the Iowa Hospital Association to the director of the department.

~~*b.*~~ (4) ~~Nonvoting~~ Representatives from the department of inspections and appeals and the bureau of family health at the department, who shall serve as nonvoting ex officio members of the committee ~~shall include representatives from the department of inspections and appeals, the statewide perinatal health care program at the University of Iowa hospitals and clinics and the division of family and community health medical director at the department~~.

~~*c.*~~ *e.* Vacancies shall be filled in the same manner in which the original appointments were made.

~~*d.*~~ *f.* Three consecutive unexcused absences shall be grounds for the director to consider dismissal of the committee member and appointment of another. ~~The chairperson of the committee shall notify the director of the department.~~

150.3(3) *Officers.* Officers of the committee ~~shall be a~~ are the chairperson and ~~a~~ vice-chairperson ~~and~~. The vice-chairperson succeeds the chairperson at the end of the chairperson's term. A new vice-chairperson shall be elected, by majority vote of the committee, at the first meeting of ~~each fiscal year unless designated at the time of appointment~~ the sitting chairperson's third or final year in office. ~~Vacancies in the office of chairperson shall be filled by elevation of the vice-chairperson. Vacancies in the office of vice-chairperson shall be filled by election at the next meeting after the vacancy occurs.~~ The chairperson shall preside at all meetings of the committee, appoint such subcommittees as deemed necessary, and designate the chairperson of each subcommittee. If the chairperson is absent or unable to act, the vice-chairperson shall perform the duties of the chairperson. When so acting, the vice-chairperson shall have all the powers of and be subject to all restrictions upon the chairperson. The vice-chairperson shall also perform such other duties as may be assigned by the chairperson.

150.3(4) *Meetings.*

a. The committee shall establish a meeting schedule on an annual basis to conduct its business. Meetings may be scheduled as business requires, but notice to members must be given at least five working days prior to the meeting date. A four-week notice is encouraged to accommodate the schedules of members.

~~*b.* Robert's Rules of Order shall govern all meetings.~~

~~*c.*~~ *b.* Action on any issue before the committee can be taken only by a majority vote of the entire membership. The committee shall maintain information sufficient to indicate the vote of each member present.

150.3(5) *Subcommittees.* The committee may designate one or more subcommittees to perform such duties as may be deemed necessary.

150.3(6) *Expenses of committee members.* ~~The~~ When incurred on behalf of committee business, the following may be considered necessary expenses for reimbursement of committee members ~~when incurred on behalf of committee business~~ and are subject to established state reimbursement rates:

a. Reimbursement for travel in a private car.

b. Actual lodging and meal expenses including sales tax on lodging and meals.

c. Actual expense of public transportation.

150.3(7) *Confidentiality.*

a. All committee members and subcommittee members shall sign a confidentiality agreement and shall agree not to divulge or discuss confidential information.

b. The signed confidentiality agreements shall be kept on file at the department.

ITEM 2. Rescind rule 641—150.4(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.4(135) Duties of statewide perinatal care team. The team shall:

1. Promote evidence-based and evidence-informed care of pregnant women and newborns.
2. Provide education and consultation to regional and primary providers of perinatal care.
3. Provide chart review to assess quality of care provided and additional education required.
4. Promote change in practice when needed through sharing best practice ideas, policies and procedures.
5. Promote maternal-fetal transfer if delivery of an at-risk infant or mother is anticipated and a higher level of care is anticipated.
6. Provide on-site verification to determine a hospital's ability to meet its level-of-care designation.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 3. Rescind rule 641—150.5(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.5(135) Duties of the department. The department shall:

1. Certify a hospital's capacity to provide perinatal health care in accordance with criteria established under these rules.
2. Provide technical assistance to the hospitals that choose to participate.
3. Review the submitted levels-of-care assessment tool from all participating hospitals.
4. Conduct or coordinate the on-site verification of determined levels of care for maternal and neonatal care hospitals designated as Level II, Level III and Level IV.
5. Facilitate all meetings of the perinatal guidelines advisory committee.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 4. Rescind rule 641—150.6(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.6(135) Maternal and neonatal levels of care—categorization and verification. Categorization and verification of hospitals participating in Iowa's regionalized system of perinatal health care shall be made by the department based on national recommendations from the American Academy of Pediatrics and the American Congress of Obstetricians and Gynecologists.

150.6(1) *Application for initial verification.*

a. An application for initial verification may be submitted when:

(1) A new hospital with a perinatal service is opened;

(2) A hospital is reopening a previously inactive obstetrical unit; or

(3) A hospital requests a change to a higher-level designation in maternal care or neonatal care.

b. A hospital requesting an initial verification may obtain application materials from the department upon written request to:

Iowa Department of Public Health
Bureau of Family Health
Regionalized System of Perinatal Health Care Coordinator
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0075

c. Upon receipt of an application from a hospital that is requesting to change to a higher level of maternal or neonatal care, the department will request and review copies of the results of the last site

visit to the hospital by the statewide perinatal team or request a site visit. The results of the site visit along with the application will be shared with the statewide perinatal team and the perinatal guidelines advisory committee to determine if all requirements are met. The committee recommendations will be sent to the department, which will notify the hospital if its application is approved or denied. If the application is denied, the applicant will be informed of the applicant's right to appeal the department's decision.

150.6(2) *Application for a hospital that has previously participated in the regionalized system of perinatal health care.*

a. If a hospital chooses to continue its participation, the hospital must select the levels for maternal care and neonatal care appropriate for the hospital's capacity to provide perinatal health care in accordance with the criteria outlined in these rules.

b. To maintain continuous participation in the regionalized system of perinatal health care, a hospital shall complete the levels-of-care assessment tool and an attestation statement available at idph.iowa.gov/perinatal-care and mail them by April 11, 2019, to:

Iowa Department of Public Health
Bureau of Family Health
Regionalized System of Perinatal Health Care Coordinator
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0075

c. The department shall set dates when each hospital's certification of verification will expire based on the statewide perinatal health care team's site visit schedule and the level of care selected.

150.6(3) *Reverification of level designation.* The levels-of-care assessment tool will be used for all reverifications. The tool is found at idph.iowa.gov/perinatal-care. The process of reverification of a hospital participating in the regionalized system of perinatal health care will take place once every three years as follows:

a. Reverification of a Level I maternal care or neonatal care hospital will be completed through the use of the levels-of-care assessment tool. A hospital shall complete and return the levels-of-care assessment tool to the department at least 60 days before the hospital's certification is due to expire.

b. Reverification of a Level II or Level III maternal care or neonatal care hospital will be completed through use of the levels-of-care assessment tool and an on-site reverification visit. A hospital shall complete and return the levels-of-care assessment tool to the department at least 120 days before the hospital's certification is due to expire. The department will ensure that arrangements are made for the on-site reverification visit. Level II and Level III hospitals may utilize one of two on-site reverification visit options:

(1) A review conducted by the statewide perinatal care team, or

(2) A review by an independent out-of-state team identified by the hospital, approved by the department and paid for by the hospital.

c. Reverification of a Level IV maternal care and neonatal care hospital will be completed through the same process as that for a Level II or Level III maternal care or neonatal care hospital except that the on-site reverification team will consist of an out-of-state team identified by the hospital and approved by the department. The team will include, at a minimum, a maternal-fetal specialist, a neonatologist, an obstetrical nurse and a neonatal nurse. The Level IV hospital will pay the expense of the review team. All department staff and staff contracted by the department involved in the on-site reverification process will sign a confidentiality statement that will be kept on file at the department.

d. Reverification shall not be construed to imply any guarantee on the part of the department as to the level of perinatal health care services available at a hospital.

e. Hospital reverification of the level of care is valid for a period of three years from the effective date unless otherwise specified on the certificate of verification or unless sooner suspended or revoked.

f. As part of the reverification and renewal process, the department or a designated survey team may conduct periodic on-site reviews of the services of the maternal care and neonatal care hospitals, including chart reviews.

150.6(4) *Level designation maintenance, variance and confidential records.*

a. A hospital which is unable to maintain its designated level of care shall notify the department, in writing, within 60 days of the change in capacity to meet the designated level of care.

b. The director may grant a variance from the requirements of rules adopted under this chapter for any hospital participating in the regionalized system of perinatal health care.

c. Proceedings, records, and reports developed pursuant to this chapter are confidential pursuant to Iowa Code section 135.11(27) and constitute peer review records under Iowa Code section 147.135, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the affected hospital, and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving verification of the participating hospital.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 5. Rescind rule 641—150.7(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.7(135) Levels of maternal care. The levels of maternal care include basic obstetrical care Level I, specialty care Level II, subspecialty care Level III and regional perinatal health care Level IV. The levels reflect the overall evidence for risk-appropriate care in a hospital through the availability of appropriate personnel, physical space, equipment, technology, and organization. Each level reflects the minimal capabilities, provider type and functional criteria required.

150.7(1) *Level I maternal care hospital.*

a. Provider of basic obstetrical care. A Level I maternal care hospital provides care to women who are low risk and are expected to have an uncomplicated birth.

b. Capabilities. A Level I maternal care hospital has the following capabilities:

(1) To perform routine intrapartum and postpartum care that is anticipated to be uncomplicated. Care of uncomplicated pregnancies includes the ability to detect, stabilize and initiate management of unanticipated maternal, fetal or neonatal problems that occur during the antepartum, intrapartum, or postpartum period until the patient can be transferred to a facility that provides specialty maternal care.

(2) To begin an emergency cesarean delivery within a time interval that best incorporates maternal and fetal risks and benefits with the provision of emergency care.

c. Types of health care providers. A Level I maternal care hospital will have:

(1) Maternity care providers, including certified nurse-midwives, family practice physicians, or obstetrician-gynecologists, available to attend all births.

(2) Every birth attended by at least two professionals, including the primary maternal care provider and a person competent to provide neonatal resuscitation and postnatal care to stabilize the infant.

(3) Adequate numbers of registered nurses available who have completed orientation and demonstrated competence in the care of obstetric patients, including women and fetuses, consistent with Level I care criteria and who are able to stabilize and transfer high-risk women and newborns.

(4) Nursing leadership with expertise in perinatal nursing care.

(5) A provider with privileges to perform an emergency cesarean delivery, available to attend all deliveries. The provider may be a general surgeon, an obstetrician-gynecologist, or a family practice physician with certification.

(6) A provider of anesthesia services available to provide labor analgesia and surgical anesthesia.

d. Functional criteria of support services. Support services include, but are not limited to, access to obstetric ultrasonography, laboratory testing, and blood bank supplies at all times. A Level I maternal care hospital will:

(1) Have protocols and capabilities in place for:

1. Massive transfusion,
2. Emergency release of blood products (before full compatibility testing is complete),
3. Management of multiple component therapy.

(2) Ensure optimal care of all pregnant women by having formal transfer plans established in partnership with a higher-level receiving hospital. These plans will include:

1. Risk identification,
2. Determination of conditions necessitating consultation,
3. Referral and transfer, and
4. A reliable, accurate, and comprehensive communication system between the participating hospital and the transport team.

(3) Have education and quality improvement programs to maximize patient safety, provide such programs through collaboration with facilities with higher levels of care that receive transfers, or both.

(4) Have data collection, storage and retrieval to support quality improvement.

150.7(2) *Level II maternal care hospital.*

a. Provider of specialty care. In addition to meeting the criteria of a Level I maternal care hospital, a Level II maternal care hospital provides care of appropriate high-risk pregnant women, both those directly admitted to the hospital and those transferred from another hospital.

b. Capabilities. In addition to having the capabilities of a Level I maternal care hospital, a Level II maternal care hospital has the following capabilities:

(1) The infrastructure for continuous availability of adequate numbers of registered nurses who have demonstrated competence in the care of obstetric patients (women and fetuses).

(2) Orientation and demonstrated competence consistent with Level II care criteria and the capability to stabilize and transfer high-risk women and newborns who exceed Level II care criteria.

c. Types of health care providers. In addition to meeting the health care provider requirements of a Level I maternal care hospital, a Level II maternal care hospital will have:

(1) Health care providers, including certified nurse-midwives or family physicians.

(2) Nursing leaders and staff with formal training and experience in the provision of perinatal nursing care who can coordinate with respective neonatal care services.

(3) An attending obstetrician-gynecologist available at all times.

(4) A board-certified or board-eligible obstetrician-gynecologist with special interest and experience in obstetric care as the director of obstetric services.

(5) Access to a maternal-fetal medicine subspecialist for consultation, available on site, by telephone, or by telemedicine as needed.

(6) A provider of anesthesia services available at all times to provide labor analgesia and surgical anesthesia.

(7) A board-certified or board-eligible anesthesiologist with special training or experience in obstetric anesthesia, available for consultation.

(8) Medical and surgical consultants available to stabilize obstetric patients who have been directly admitted to the facility or transferred from other hospitals.

d. Functional criteria of support services. In addition to meeting the support services requirements of a Level I maternal care hospital, a Level II maternal care hospital will have:

(1) Computed tomography scan and, ideally, magnetic resonance imaging with interpretation available.

(2) Basic ultrasonographic imaging services for maternal and fetal assessment at all times, either in house or on call.

(3) Special equipment needed to accommodate the care and services needed for obese women. In addition, based on the patient's BMI and other risk factors, a consultation with an obstetrician-gynecologist or a maternal fetal medicine specialist should be considered.

(4) The ability to provide high-risk obstetrical care, but efforts should be made to transfer women whose newborns are likely to need a higher level of care than a Level II maternal care hospital can provide, or when the pregnancy has risk factors that require the consultation or care of a maternal-fetal medicine specialist.

150.7(3) *Level III maternal care hospital.*

a. Provider of subspecialty care. A Level III maternal care hospital provides care to women that includes all Level I and Level II services and has subspecialists available on site, by telephone, or by telemedicine to assist in providing care for more complex maternal and fetal conditions.

b. Capabilities. A Level III maternal care hospital functions as the regional perinatal health care center for some areas of Iowa if there are no Level IV maternal care hospitals available. In these areas, a Level III maternal care hospital will be responsible for the leadership; facilitation of transport and referral; educational outreach; and data collection, storage and retrieval to support quality improvement. Designation of Level III maternal care hospital should be based on the demonstrated experience and capability of the facility to provide comprehensive management of severe maternal and fetal complications.

c. Types of health care providers. In addition to meeting the health care provider requirements of a Level II maternal care hospital, a Level III maternal care hospital will have:

(1) An obstetrician-gynecologist with inpatient privileges, available on site at all times.

(2) A maternal-fetal medicine subspecialist with inpatient privileges, available at all times, either on site, by telephone, or by telemedicine.

(3) A director of the maternal-fetal medicine service who is a board-certified or board-eligible maternal-fetal medicine subspecialist.

(4) A board-certified or board-eligible obstetrician-gynecologist with special interest and experience in obstetric care directing obstetric services.

(5) A provider of anesthesia services available at all times on site.

(6) A board-certified or board-eligible anesthesiologist with special training or experience in obstetric anesthesia who is in charge of obstetric anesthesia services.

(7) A full complement of subspecialists, available for inpatient consultations, including subspecialists in:

1. Critical care,
2. General surgery,
3. Infectious disease,
4. Hematology,
5. Cardiology,
6. Nephrology,
7. Neurology, and
8. Neonatology.

(8) Nursing leaders and adequate numbers of registered nurses who have completed orientation and demonstrated competence in the care of obstetric patients (women and fetuses) consistent with Level III care criteria, including the transfer of high-risk women who exceed Level III care criteria, and who have special training and experience in the management of women with complex maternal illnesses and obstetric complications. Nursing personnel will be continuously available.

d. Functional criteria of support services. In addition to meeting the support services requirements of a Level II maternal care hospital, a Level III maternal care hospital will have:

(1) An on-site intensive care unit to accept pregnant women.

(2) Critical care providers on site to actively collaborate with maternal-fetal specialists at all times.

(3) Equipment and personnel with expertise available on site to ventilate and monitor women in the labor and delivery unit until they can be safely transferred to the intensive care unit.

(4) The ability to provide the following imaging services, with interpretation available at all times:

1. Basic interventional radiology,
2. Maternal echocardiography,
3. Computed tomography,
4. Magnetic resonance imaging, and
5. Nuclear medicine imaging.

(5) The ability to perform detailed obstetric ultrasonography and fetal assessment, including Doppler studies.

150.7(4) *Level IV maternal care hospital.*

a. Provider of services as a regional perinatal health care center. In addition to meeting the requirements for a Level III maternal care hospital, a Level IV maternal care hospital provides care to women with additional requirements and has considerable experience in the care of the most complex and critically ill pregnant women throughout antepartum, intrapartum, and postpartum care. The particular specialty of fetal surgery, advanced neurosurgery, transplant, and advanced cardiovascular capabilities may not all be available at an individual Level IV maternal care hospital. In some cases, specific advanced care will require care coordination to the Level IV maternal care hospital by availability of specific expertise, including but not limited to fetal surgery, advanced neurosurgery, transplant, and advanced cardiovascular capabilities. Each hospital will have a clear understanding of the categories of perinatal patients who can be managed appropriately in the local hospital and those who must be transferred.

b. Capabilities. Although Level III and Level IV maternal care hospitals may seem to overlap, a Level IV maternal care hospital is distinct from a Level III maternal care hospital in the approach to the care of pregnant women and women in the postpartum period with complex and critical illnesses. In addition to having an intensive care unit on site for obstetric patients, a Level IV maternal care hospital must have evidence of a maternal-fetal medicine care team that has the expertise to assume responsibility for pregnant women and women in the postpartum period who are in critical condition or have complex medical conditions. The maternal-fetal medicine team collaborates actively in the co-management of all obstetric patients who require critical care and intensive care unit services, including co-management of intensive care unit-admitted obstetric patients.

c. Types of health care providers. In addition to meeting the health care provider requirements of a Level III maternal care hospital, a Level IV maternal care hospital will have:

(1) A maternal-fetal medicine team member with full privileges, available at all times for on-site consultation and management.

(2) A board-certified maternal-fetal medicine subspecialist with expertise in critical care obstetrics to lead the team.

(3) A maternal-fetal medicine team with expertise in critical care at the physician level, nursing level, and ancillary services level.

(4) Institutional support for the routine involvement of a maternal-fetal medicine care team with the critical care units and specialists. A key principle of caring for critically ill pregnant and peripartum women is the hospital's recognition of the need for seamless communication between maternal-fetal medicine subspecialists and other subspecialists in the planning and facilitation of care for women with the most high-risk complications of pregnancy.

(5) A commitment to having physician and nursing leaders with expertise in maternal intensive and critical care, as well as adequate numbers of available registered nurses in a Level IV maternal care hospital who have experience in the care of women with complex medical illnesses and obstetric complications; this experience includes completed orientation and demonstrated competence in the care of obstetric patients (women and fetuses) consistent with Level IV maternal care criteria.

(6) A director of obstetric services who is a board-certified maternal-fetal medicine subspecialist or a board-certified obstetrician-gynecologist with expertise in critical care obstetrics.

(7) A provider of anesthesia services available on site at all times.

(8) A board-certified anesthesiologist with special training or experience in obstetric anesthesia who is in charge of obstetric anesthesia services.

(9) Adult medical and surgical specialty and subspecialty consultants, a minimum of those listed for a Level III maternal care hospital, available on site at all times to collaborate with the maternal-fetal medicine care team.

d. Functional criteria of support services. In addition to meeting the support services requirements of a Level III maternal care hospital, a Level IV maternal care hospital will have:

(1) The capability for on-site medical and surgical care of complex maternal conditions (e.g., congenital maternal cardiac lesions, vascular injuries, neurosurgical emergencies, and transplants) with the availability of critical (or intensive) care unit beds.

(2) Perinatal system leadership, including facilitation of maternal referral and transport, outreach education for facilities and health care providers in the region and analysis and evaluation of regional data, including perinatal complications, outcomes and quality improvement.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 6. Rescind rule 641—150.8(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.8(135) Maternal-fetal transport—all levels. Maternal-fetal transport is an essential component of perinatal care. A hospital participating in the regionalized system of perinatal health care must be familiar with its own resources and capabilities in dealing with obstetrical and neonatal complications. In most instances, maternal-fetal transport is preferable to neonatal transport. Each hospital, when transporting or accepting a transport, needs a system in place to facilitate a smooth transition of care in the most expeditious manner possible. The majority of maternal-fetal transports can be carried out by ground transportation. It is important for ambulance services to be equipped for maternal-fetal transport and have appropriately trained staff.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 7. Rescind rule 641—150.9(135,77GA,ch1221) and adopt the following **new** rule in lieu thereof:

641—150.9(135) Levels of neonatal care. The levels of neonatal care include basic neonatal care Level I, specialty care Level II, and subspecialty intensive care Level III and Level IV. The levels reflect the overall evidence for risk-appropriate care through the availability of appropriate functional criteria, physical facilities, medical and nursing personnel, outreach education, allied health personnel and services, infection control, newborn or neonatal safety, neonatal transport and quality improvement.

150.9(1) *Level I neonatal care hospital.*

a. Provider of basic neonatal care. A Level I neonatal care hospital provides a basic level of care to neonates without complications. A Level I neonatal care hospital has the following capabilities:

(1) To provide neonatal resuscitation at every delivery.

(2) To evaluate and provide postnatal care to stable term newborn infants.

(3) To stabilize and provide care for infants born at 35 to 37 weeks' gestation who remain physiologically stable.

(4) To stabilize newborn infants who are ill and those born at less than 35 weeks' gestation until transfer to a higher level of care.

(5) To provide leadership in early risk identification before and after birth.

(6) To seek consultation or referral for high-risk neonates.

(7) To provide public and professional education.

b. Functions. A Level I neonatal care hospital has a family-centered philosophy. Parents have reasonable access to their newborns 24 hours a day within all functional units and are encouraged to participate in the care of their newborns. Generally, a newborn can be with its parents in the mother's room.

c. Physical facilities. A Level I neonatal care hospital will maintain a nursery for normal-term or late preterm neonates.

d. Medical personnel. At a Level I neonatal care hospital, neonatal care is under the supervision of one of the following:

(1) A board-eligible or board-certified neonatologist,

(2) A pediatrician,

(3) A family medicine physician,

(4) A board-eligible or board-certified advanced registered nurse practitioner, or

(5) A physician assistant.

e. Nursing personnel. At a Level I neonatal care hospital, a registered nurse assigned to the neonatal service has nursing orientation to and demonstrates competency in the care of a neonate.

f. Outreach education. A Level I neonatal care hospital will assume an active role in the development and coordination of wellness and preventive programs concerning neonatal and child health at the community level, including parenting, breastfeeding, and cessation of smoking.

g. Allied health personnel and services. A Level I neonatal care hospital will have available, at a minimum, the following allied health personnel and services:

(1) Dietitian with knowledge of maternal and neonatal nutrition management,
(2) Social worker,
(3) Bioengineer-safety and environmental control,
(4) Pharmacy,
(5) Radiology,
(6) Laboratory,
(7) Pathology, and
(8) Chaplain, spiritual support.

h. Infection control.

(1) Each Level I neonatal care hospital will establish written policies and procedures for assessing the health of personnel assigned to the perinatal care services and of those who have significant contact with the newborn. The policies and procedures will include restricting contact with patients when necessary and screening per department recommendations for health care providers. Routine culturing of specimens obtained from personnel is not useful, although selective culturing may be of value when a pattern of infection is suspected.

(2) No special or separate isolation facility is required for neonates born at home or in transit to the hospital. Detailed descriptions of the isolation categories and requirements will be available in each hospital's infection control manual.

i. Newborn safety. At a Level I neonatal care hospital, the protection of newborns is the responsibility of all personnel in the neonatal care hospital. Newborns will always be within the sight and supervision of hospital staff, the mother, or other family members or friends designated by the mother. Each neonatal care hospital has a policy established that addresses strategies to promote newborn safety.

150.9(2) *Level II neonatal care hospital.*

a. Provider of specialty care. In addition to meeting the requirements for care and services as a Level I neonatal care hospital, a Level II neonatal care hospital will:

(1) Provide management of certain high-risk neonates with selected complications.

(2) Have a board-certified or board-eligible neonatologist(s) or a board-certified or board-eligible pediatrician(s) on staff, one of whom directs the special care nursery.

b. Functions. In addition to performing the functions of a Level I neonatal care hospital, a Level II neonatal care hospital will have the capability to:

(1) At a minimum, manage neonates of greater than or equal to 32 weeks' gestation and weighing greater than or equal to 1,500 grams who have physiological immaturity or who are moderately ill with problems that are expected to resolve rapidly and are not anticipated to need subspecialty services on an urgent basis and, for neonates of 32 weeks' gestation and weighing less than 1,500 grams, recommend consultation with a higher-level facility by prearranged consultative agreement.

(2) Provide mechanical ventilation for a brief duration (less than 24 hours).

(3) Provide continuous positive airway pressure as needed (less than 24 hours).

(4) Stabilize infants born before 32 weeks and weighing less than 1,500 grams until transfer to a Level III or Level IV neonatal care hospital.

(5) Provide care for infants convalescing after intensive care.

c. Physical facilities. In addition to having the physical facilities of a Level I neonatal care hospital, a Level II neonatal care hospital will have:

(1) A special care nursery (a special area designated for the care of sick neonates),
(2) A mechanical ventilator,
(3) A portable X-ray machine,
(4) A laboratory with a blood gas analyzer,

(5) Physiologic monitoring equipment, and

(6) A pharmacy.

d. Medical personnel. In addition to having the medical personnel of a Level I neonatal care hospital, a Level II neonatal care hospital will:

(1) Be under the co-direction/supervision of a board-eligible or board-certified neonatologist or pediatrician.

(2) Have a neonatologist or pediatrician on staff. Other provider types that may be utilized include a pediatric hospitalist, a neonatal nurse practitioner or pediatric nurse practitioner or a physician assistant with appropriate training.

(3) Have allied medical specialists in various disciplines on staff, including specialists in internal medicine, radiology, and pathology.

e. Nursing personnel. In addition to having the nursing personnel of a Level I neonatal care hospital, a Level II neonatal care hospital has nursing orientation to and demonstrates competency in the care of sick neonates.

f. Outreach education. A Level II neonatal care hospital has the same responsibility for outreach education as that of a Level I neonatal care hospital.

g. Allied health personnel and services. In addition to having the allied health personnel and services of a Level I neonatal care hospital, a Level II neonatal care hospital has:

(1) Respiratory therapists,

(2) Certified laboratory technicians/blood gas technicians, and

(3) X-ray technologists and ultrasound technicians with neonatal/perinatal experience.

h. Infection control. A Level II neonatal care hospital has the same infection control guidelines as those for a Level I neonatal care hospital.

i. Neonatal safety. A Level II neonatal care hospital has the same requirements for newborn safety as those for a Level I neonatal care hospital.

j. Neonatal transport. In addition to having the Level I neonatal care hospital capabilities for neonatal transport, a Level II neonatal care hospital is expected to accept patient referrals when appropriate. A critical function of providers at a Level II neonatal care hospital is to communicate with the providers at a Level I neonatal care hospital in deciding whether a particular patient should be transported to the Level II neonatal care hospital. Careful assessment of the hospital's capabilities for perinatal management will be critical in these decisions. This information will need to be disseminated among the hospital staff. Providers of obstetric care need to know the critical gestational age limitations for their particular nursery. Below this gestational age, maternal-fetal transport should be utilized if delivery is anticipated and the circumstances permit.

k. Perinatal care committee.

(1) A Level II neonatal care hospital must maintain a perinatal care committee. Members of this committee will represent, at a minimum, the fields of:

1. Obstetrics,
2. Pediatrics,
3. Family practice,
4. Nursing,
5. Administration,
6. Laboratory,
7. Respiratory therapy,
8. Anesthesia, and
9. Social services.

(2) Responsibilities of the perinatal care committee include the following:

1. To develop policies for the unit, including provisions to ensure adequate patient care by qualified providers.
2. To conduct a meeting, at least semiannually, to resolve problems related to the unit.
3. To review educational activities conducted by the unit.

4. To serve as a general liaison between the various groups represented on the committee.

150.9(3) *Level III neonatal care hospital.*

a. Provider of subspecialty intensive care. In addition to providing the care and services of a Level II neonatal care hospital, a Level III neonatal care hospital will manage high-risk neonates, including infants born at less than 32 weeks or weighing less than 1,500 grams. High-risk neonates requiring surgical intervention or pediatric subspecialty should go to a Level IV neonatal care hospital.

b. Functions. In addition to performing the functions of a Level II neonatal care hospital, a Level III neonatal care hospital will have the capability to:

(1) Provide sustained life support.

(2) Provide comprehensive care for infants born at less than 32 weeks and weighing less than 1,500 grams and infants born at all gestations and birth weights who have critical illness.

(3) Provide an organized program for monitoring treatment and follow-up of retinopathy of prematurity.

(4) Maintain a prearranged consultative agreement with a higher-level hospital within the Level III neonatal care hospital's referral area.

(5) Transfer a surgical patient within approximately two hours from the time the referral call is made until arrival at the referral hospital.

(6) Provide follow-up care for high-risk newborns.

c. Physical facilities. In addition to having the physical facilities of a Level II neonatal care hospital, a Level III neonatal care hospital:

(1) Has a neonatal intensive care unit with continuously available personnel, including a neonatologist, neonatal nurses and respiratory therapists to provide life support for as long as necessary.

(2) Provides a full range of respiratory support that includes invasive mechanical ventilation and may include high-frequency ventilation or inhaled nitric oxide or both.

(3) Performs advanced imaging, with interpretation on an urgent basis, including computed tomography, magnetic resonance imaging, and echocardiography.

(4) Maintains a neonatal transport team for the regional area served.

d. Medical personnel. In addition to having the medical personnel of a Level II neonatal care hospital, a Level III neonatal care hospital will:

(1) Have a medical director of the neonatal intensive care unit who is a full-time, board-eligible or board-certified neonatologist.

(2) Provide prompt and readily available access to the following, either on site or by prearranged consultative agreement. Using telemedicine technology or telephone consultation, a prearranged consultation can be performed from a distant location by:

1. Pediatric medical subspecialists,
2. A pediatric surgical specialist,
3. A pediatric anesthesiologist, and
4. A pediatric ophthalmologist.

(3) Have a neonatologist on the premises when an unstable critically ill infant is in the Level III neonatal care hospital.

e. Nursing personnel. A Level III neonatal care hospital has the same requirements for nursing personnel as those of a Level II neonatal care hospital.

f. Outreach education. Outreach education is provided to each hospital in the referral area at least once per year. This outreach education can be achieved by one or more of the following:

(1) Sponsoring an annual conference.

(2) Visiting a Level I neonatal care hospital and a Level II neonatal care hospital.

(3) Providing educational programs and materials for the staff members of the Level I and Level II neonatal care hospitals.

g. Allied health personnel and services. In addition to having the allied health personnel and services of a Level II neonatal care hospital, a Level III neonatal care hospital has:

(1) X-ray technologists and ultrasound technicians with neonatal/perinatal experience, available on a 24-hour basis.

(2) Social work services with social workers assigned specifically to the neonatal units.

h. Infection control. A Level III neonatal care hospital has the same infection control guidelines as those of a Level I neonatal care hospital.

i. Neonatal safety. A Level III neonatal care hospital has the same requirements for newborn safety as those for a Level I neonatal care hospital.

j. Neonatal transport. In addition to having the Level II neonatal care hospital transport capabilities, a Level III neonatal care hospital is capable of providing neonatal transport with crews who have demonstrated competence in neonatal resuscitation and stabilization. Important decisions to be made jointly will include:

(1) The appropriateness of transport.

(2) The best mode of transportation.

(3) The need for additional personnel accompanying the transport.

(4) The appropriate medical management to initiate prior to transport.

k. Perinatal care committee. A Level III neonatal care hospital shall maintain a perinatal care committee that meets the same criteria as those for a Level II neonatal care hospital.

150.9(4) *Level IV neonatal care hospital.*

a. Provider of subspecialty intensive care. In addition to providing the level-of-care services of a Level III neonatal care hospital, a Level IV neonatal care hospital manages higher-risk neonates. The differentiating factor between a Level III neonatal care hospital and a Level IV neonatal care hospital is primarily one of having additional professional staff with considerable experience in the care of the most complex and critically ill infants and having the ability to provide surgical repair of complex congenital or acquired conditions.

b. Physical facilities. In addition to having the physical facilities of a Level III neonatal care hospital, a Level IV neonatal care hospital has more equipment, more extensive physical facilities and will serve a more complicated patient population.

c. Medical personnel. In addition to having the medical personnel of a Level III neonatal care hospital, a Level IV neonatal care hospital will:

(1) Have a medical director of the neonatal intensive care unit who is a full-time, board-certified neonatologist.

(2) Have anesthesia providers on staff with special training or experience in pediatric anesthesia.

(3) Maintain a full range of pediatric medical subspecialists and pediatric surgical subspecialists at the site.

(4) Have the subspecialist physicians immediately available to the Level IV neonatal care hospital.

(5) Have a neonatologist on the premises when an unstable critically ill infant is in the Level IV neonatal care hospital.

d. Nursing personnel. A Level IV neonatal care hospital has the same requirements for nursing personnel as those for a Level II neonatal care hospital.

e. Outreach education. A Level IV neonatal care hospital has the same responsibilities for outreach education as those for a Level III neonatal care hospital.

f. Allied health personnel and services. A Level IV neonatal care hospital has the same level of allied health personnel and services as that of a Level III neonatal care hospital.

g. Infection control. A Level IV neonatal care hospital has the same infection control guidelines as those for a Level I neonatal care hospital.

h. Neonatal safety. A Level IV neonatal care hospital has the same requirements for neonatal safety as those for a Level I neonatal care hospital.

i. Neonatal transport. In addition to meeting the neonatal transport requirements of a Level III neonatal care hospital, a Level IV neonatal care hospital is capable of providing ground and air transportation with crews who have demonstrated competencies in neonatal resuscitation and stabilization.

j. Perinatal care committee. In addition to maintaining a perinatal care committee that meets the same criteria as those for a Level II neonatal care hospital, a Level IV neonatal care hospital maintains a perinatal care committee that has additional representation by surgical specialties. The Level IV

neonatal care hospital's perinatal care committee will maintain and analyze data on long-term outcomes to evaluate the effectiveness of the delivery of perinatal health care services.

This rule is intended to implement Iowa Code section 135.11(27).

ITEM 8. Rescind rule **641—150.10(135,77GA,ch1221)**.

ITEM 9. Renumber rules **641—150.11(135,77GA,ch1221)** to **641—150.13(135,77GA,ch1221)** as **641—150.10(135,77GA,ch1221)** to **641—150.12(135,77GA,ch1221)**.

ITEM 10. Amend renumbered rules 641—150.10(135,77GA,ch1221) to 641—150.12(135,77GA,ch1221) as follows:

641—150.10(135~~,77GA,ch1221~~) Grant or denial of certificate of verification; and offenses and penalties.

150.10(1) Upon receipt of the levels-of-care assessment tool and the on-site survey results, if required, the department shall within 30 days issue its decision to grant or deny the hospital a certificate of verification. The department may deny verification or may give a citation and warning, place on probation, suspend, or revoke existing verification if the department finds reason to believe the hospital's perinatal care program has not been or will not be operated in compliance with these rules. The denial, citation and warning, period of probation, suspension~~,~~ or revocation shall be effected and may be appealed in accordance with the requirements of Iowa Code section 17A.12.

150.10(2) No change.

150.10(3) Complaints and the investigative process shall be treated as confidential to the extent they are protected by Iowa Code ~~section~~ sections 22.7 and 135.11(27).

150.10(4) and **150.10(5)** No change.

150.10(6) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is: ~~Iowa Regionalized System of Perinatal Health Care,~~ Iowa Department of Public Health, ~~Division of Health Promotion and Chronic Disease Prevention~~ Bureau of Family Health, Regionalized System of Perinatal Health Care Coordinator, 321 East 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

150.10(7) to **150.10(13)** No change.

150.10(14) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: ~~Iowa Regionalized System of Perinatal Health Care,~~ Iowa Department of Public Health, ~~Division of Health Promotion and Chronic Disease Prevention~~ Bureau of Family Health, Regionalized System of Perinatal Health Care Coordinator, 321 East 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075.

150.10(15) and **150.10(16)** No change.

641—150.11(135~~,77GA,ch1221~~) Prohibited acts. A hospital that imparts or conveys, or causes to be imparted or conveyed, that it is a participating hospital in Iowa's regionalized system of perinatal health care, or that uses any other term, such as a designated level of care, to indicate or imply that the hospital is a participating hospital in the regionalized system of perinatal health care without having obtained a certificate of verification from the department is subject to licensure disciplinary action by the department of inspections and appeals, as well as to the application by the director to the district court for a writ of injunction to restrain the use of the term or terms ~~"Level I hospital," "Level II hospital," "Level II~~

~~regional center,~~" ~~"Level II regional neonatology center," and "Level III center"~~ "Level I maternal care or neonatal care hospital," "Level II maternal care or neonatal care hospital," "Level III maternal care or neonatal care hospital" and "Level IV maternal care or neonatal care hospital" in relation to the provision of perinatal health care services.

641—150.12(135~~,77GA,ch1221~~) Construction of rules. Nothing in these administrative rules shall be construed to restrict a hospital from providing any services for which it is duly authorized.

ITEM 11. Amend **641—Chapter 150**, implementation sentence, as follows:

These rules are intended to implement ~~1998 Iowa Acts, chapter 1221, section 5, subsection 4 "a"(2)(c)~~ Iowa Code section 135.11(27).

[Filed 5/9/18, effective 7/11/18]
[Published 6/6/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/6/18.

ARC 3836C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to medical cannabidiol

The Department of Public Health 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 sections 17A.3(1)"b," 124E.11(2)"c," 124E.11(2)"g" and 136.3(9).

State or Federal Law Implemented

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

Purpose and Summary

The amendments add definitions for the new rules for laboratory testing; make minor technical corrections to Iowa Code references; and update the rules on form and quantity of medical cannabidiol, package labeling, quality control program, sampling and testing, and stability testing. New rules are also adopted for laboratory testing.

The Department's Medical Cannabidiol Board made and the Board of Medicine reviewed and approved the form and quantity recommendations included in the amendments. The rules for laboratory testing were developed by the Department with review from the State Hygienic Laboratory, an independent laboratory in Iowa, and a number of state agencies with current laboratory functions.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3707C**. A public hearing was held on April 17, 2018, at 1 p.m. in Room 518, Lucas State Office Building, Des Moines, Iowa.

Two people attended the hearing, asked questions about the rules and submitted written comments to the Department. The comments requested additional language regarding potential dependency/addiction for products that include THC and thanked the Department for clarification about the recommended age and weight chart and recent modifications to educational materials. The Department did not make any

changes to the amendments based on the comments. One change was made from the Notice. The word "that" was added to the definition of "certified" in Item 1 for clarity.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on May 9, 2018.

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 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—154.1(124E) as follows:

641—154.1(124E) Definitions. For the purposes of these rules, the following definitions shall apply:

"Acceptance criteria" means the specified limits placed on characteristics of an item or method that are used to determine data quality.

"Accreditation" means the procedure by which an authoritative body gives formal recognition that an organization is competent to carry out specific tasks and verifies that the appropriate quality management system is in place.

"Accredited nonpublic school" means any nonpublic school accredited by the Iowa state board of education, excluding home schools.

"Action level" means the threshold value that provides the criterion for determining whether a sample passes or fails a test performed pursuant to these rules.

"Aliquot" means a portion of a sample that is used in an analysis.

"Analyte" means a chemical, compound, element, bacteria, yeast, fungus, or toxin to be identified or measured.

"Analytical batch" means a group of samples that are prepared together for the same analysis and analyzed sequentially using the same instrument calibration curve and common analytical quality control checks.

"Analytical method" means a technique used qualitatively or quantitatively to determine the composition of a sample or a microbial contamination of a sample.

"Audit" means a financial review by an independent certified public accountant that includes select scope engagement or other methods of review that analyze operational or compliance issues.

"Background investigation" means a thorough review of an entity, an owner, investors, and employees conducted by the department of public safety, including but not limited to state and national criminal history records, credit records, and internal revenue service records.

"Batch" means a set of cannabis plants that are grown, harvested, and processed together, such that they are exposed to substantially similar conditions throughout cultivation and processing.

"Batch number" means a unique numeric or alphanumeric identifier assigned to a batch of cannabis plants by a manufacturer when the batch is first planted. The batch number shall contain the manufacturer's number and a sequence to allow for inventory and traceability.

"Biosecurity" means a set of preventative measures designed to reduce the risk of transmission of:

1. Infectious diseases in crops;
2. Quarantined pests;
3. Invasive alien species;
4. Living modified organisms.

"Bordering state" means the same as defined in Iowa Code section 331.910.

"Cannabinoid" means a chemical compound that is unique to and derived from cannabis.

"Cannabis" means seeds, plants, cuttings, or plant waste material from *Cannabis sativa* L. or *Cannabis indica* used in the manufacture of medical cannabidiol.

"CAS number" means a unique numerical identifier assigned to every chemical substance described in the open literature by Chemical Abstracts Service.

"CBD" means cannabidiol, Chemical Abstracts Service number 13956-29-1.

"CBDA" means cannabidiolic acid, Chemical Abstracts Service number 1244-58-2.

"CBG" means cannabigerol, Chemical Abstracts Service number 25654-31-3.

"CBN" means cannabinol, Chemical Abstracts Service number 521-35-7.

"Certificate of analysis" means the report prepared for the requester about the analytical testing performed and the results obtained by a laboratory.

"Certification" means a procedure by which a third party gives written assurance (certificate of conformity) that a product, process or service conforms to specified requirements.

"Certified" means that a laboratory demonstrates to the satisfaction of the department its ability to consistently produce valid data within the acceptance limits as specified in the department's requirements for certification and meets the minimum requirements of this chapter and all applicable regulatory requirements.

"Certified reference material" means a reference material prepared by a certifying body.

"Crop input" means any substance applied to or used in the cultivation and growth of a cannabis plant. "Crop input" includes, but is not limited to, pesticides, fungicides, fertilizers, and other soil or medium amendments.

"Data-quality assessment" means a scientific and statistical process that establishes whether the collected data are of the right type, quality, and quantity to support the intended use of the data.

"Date of expiration" means one year from the date of issuance of the medical cannabidiol registration card by the department of transportation.

"Date of issuance" means the date of issuance of the medical cannabidiol registration card by the department of transportation.

"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.
5. Crohn's disease.

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.

9. Untreatable pain.

"Department" means the Iowa department of public health.

"Department of transportation" means the Iowa department of transportation.

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

"Dispensary" means an individual or entity licensed by the department to dispense medical cannabidiol to patients and primary caregivers pursuant to Iowa Code chapter 124E and these rules. "Dispensary" includes the employees and agents of the dispensary.

"Dispensary facility" means any secured building, space, grounds, and physical structure of a dispensary licensed by the department to dispense medical cannabidiol and where the dispensing of medical cannabidiol is authorized.

"Dispense" or *"dispensing"* means to supply medical cannabidiol to patients pursuant to Iowa Code chapter 124E and these rules.

"Disqualifying felony offense" means a violation under federal or state law of a felony under federal or state law, which has as an element the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. §802(6).

"Edible medical cannabidiol products" means food items containing medical cannabidiol. "Edible medical cannabidiol products" does not include pills, tinctures, oils, or other forms of medical cannabidiol that may be consumed orally or through the nasal cavity that do not contain food or food additives; provided that food or food additives used as carriers, excipients, or processing aids shall not be considered food or food additives.

"Field duplicate sample" means a sample that is taken in the identical manner and from the same batch, process lot, or lot being sampled as the primary sample. A field duplicate sample is analyzed separately from the primary sample and is used for quality control only.

"Form and quantity" means the types and amounts of medical cannabidiol allowed to be dispensed to a patient or primary caregiver as approved by the department subject to recommendation by the medical cannabidiol board and approval by the board of medicine.

"Frequency" means the number of items occurring in a given category. Frequency may be determined by analytical method or laboratory-specific requirements for the purpose of accuracy, precision of the analysis, or statistical calculation.

"Health care practitioner" means an individual licensed under Iowa Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery who is a patient's primary care provider. "Health care practitioner" shall not include a physician assistant licensed under Iowa Code chapter 148C or an advanced registered nurse practitioner licensed pursuant to Iowa Code chapter 152 or 152E.

"Increment" or *"sample increment"* means a smaller sample that, together with other increments, makes up the primary sample.

"Inspection" means an on-site evaluation by the department, the department of public safety, or a department-approved independent consultant of facilities, records, personnel, equipment, methodology, and quality assurance practices for compliance with these rules.

"International Electrotechnical Commission" or *"IEC"* means an independent, nongovernmental membership organization that prepares and publishes international standards for all electrical, electronic, and related technologies.

"International Organization for Standardization" or *"ISO"* means an independent, nongovernmental membership organization and the largest developer of voluntary international standards.

"Laboratory" means the state hygienic laboratory at the University of Iowa or other independent medical cannabidiol testing facility accredited to Standard ISO/IEC 17025 by an ISO-approved accrediting body, with a controlled substance registration certificate from the Drug Enforcement Administration of the U.S. Department of Justice and a certificate of registration from the Iowa board of pharmacy, and approved by the department to examine, analyze, or test samples of medical cannabidiol or any substance used in the manufacture of medical cannabidiol.

"Limit of detection" or *"LOD"* means the lowest quantity of a substance or analyte that can be distinguished from the absence of that substance within a stated confidence limit.

"Limit of quantitation" or *"LOQ"* means the minimum concentration of an analyte in a specific matrix that can be reliably quantified while also meeting predefined goals for bias and imprecision.

"Lot" means a specific quantity of medical cannabidiol that is uniform and intended to meet specifications for identity, strength, purity, and composition, and that is manufactured, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling record.

"Lot number" means a unique numeric or alphanumeric identifier assigned to a lot by a manufacturer when medical cannabidiol is produced. The lot number shall contain the manufacturer's number and a sequence to allow for inventory, traceability, and identification of the plant batches used in the production of a lot of medical cannabidiol.

"Manufacture" or *"manufacturing"* means the process of converting harvested cannabis plant material into medical cannabidiol.

"Manufacturer" means an individual or entity licensed by the department to produce medical cannabidiol and distribute it to dispensaries pursuant to Iowa Code chapter 124E and these rules. "Manufacturer" includes the employees and agents of the manufacturer.

"Manufacturing facility" means any secured building, space, grounds, and physical structure of a manufacturer for the cultivation, harvesting, packaging, processing, storage, and distribution of cannabis or medical cannabidiol and where access is restricted to designated employees of a manufacturer and escorted visitors.

"Market withdrawal" means the voluntary removal of medical cannabidiol from dispensaries and patients by a manufacturer for minor issues that do not pose a serious health threat.

"Mass spectrometry" means an analytical technique that ionizes chemical species and sorts the ions based on their mass-to-charge ratio.

"Matrix" means the component or substrate that contains the analyte of interest.

"Matrix spike duplicate" means a duplicate sample prepared by adding a known quantity of a target analyte to a field sample matrix or other matrix that is as closely representative of the matrix under analysis as possible.

"Matrix spike sample" means a sample prepared by adding a known quantity of the target analyte to a field sample matrix or to a matrix that is as closely representative of the matrix under analysis as possible.

"Medical assistance program" means IA Health Link, Medicaid Fee-for-Service, or HAWK-I, as administered by the Iowa Medicaid enterprise of the Iowa department of human services.

"Medical cannabidiol" means any pharmaceutical grade cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof that has a tetrahydrocannabinol level of no more than 3 percent and that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and designated in this chapter.

"Medical cannabidiol waste" means medical cannabidiol that is returned, damaged, defective, expired, or contaminated.

"Medical cannabis goods" means medical cannabidiol process lots, medical cannabidiol products, and cannabis plant material, including dried tissue.

"Method blank" means an analyte-free matrix to which all reagents are added in the same volumes or proportions as are used in sample preparation.

"Moisture content" means the percentage of water in a dry sample by weight.

"National criminal history background check" means fingerprint processing through the department of public safety and the Federal Bureau of Investigation (FBI) and review of records on file with national organizations, courts, and law enforcement agencies to the extent allowed by law.

"Non-target organism" means an organism that the test method or analytical procedure is not testing for. Non-target organisms are used in evaluating the specificity of a test method.

"Patient" means a person who is a permanent resident of the state of Iowa who suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E and these rules.

"Percent recovery" means the percentage of a measured concentration relative to the added (spiked) concentration in a reference material, matrix spike sample, or matrix spike duplicate.

"Permanent resident" means a natural person who physically resides in Iowa as the person's principal and primary residence and who establishes evidence of such residency by providing the department with one of the following:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A valid Iowa voter registration card,
4. A current Iowa vehicle registration certificate,
5. A utility bill,
6. A statement from a financial institution,
7. A residential lease agreement,
8. A check or pay stub from an employer,
9. A child's school or child care enrollment documents,
10. Valid documentation establishing a filing for homestead or military tax exemption on property located in Iowa, or
11. Other valid documentation as deemed acceptable by the department to establish residency.

"Pharmaceutical grade" means medical cannabidiol that meets standards for content, contamination, and consistency set by the department as determined by testing conducted at a laboratory pursuant to Iowa Code chapter 124E and these rules.

"Plant material" means any cannabis plant, cutting, trimming, or clone that has roots or that is cultivated with the intention of growing roots.

"Plant material waste" means plant material that is not used in the production of medical cannabidiol in a form allowable under these rules.

"Primary caregiver" means a person who is a resident of this state or a bordering state, including but not limited to a parent or legal guardian, at least 18 years of age, who has been designated by a patient's health care practitioner as a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol pursuant to the provisions of Iowa Code chapter 124E and these rules.

"Primary care provider" means any health care practitioner involved in the diagnosis and treatment of a patient's debilitating medical condition.

"Primary sample" means a portion of a batch, process lot, or lot that is used for testing for identity, strength, purity, and composition.

"Process lot" means any amount of cannabinoid concentrate or extract that is uniform, produced from one or more batches, and used for testing for identity, strength, purity, and composition prior to being packaged.

"Product expiration date" means the date after which a medical cannabidiol product may not be sold by a manufacturer or a dispensary.

"Production" or *"produce"* means:

1. Cultivating or harvesting plant material;
2. Processing or manufacturing; or
3. Packaging of medical cannabidiol.

"Proficiency test" means an evaluation of a laboratory's performance against preestablished criteria by means of interlaboratory comparisons of test measurements.

"Proficiency test sample" means a sample prepared by a party independent of the testing laboratory, with a concentration and identity of an analyte that is known to the independent party but is unknown to the testing laboratory and testing laboratory personnel.

"Public or private school" means any property operated by a school district, charter school, or accredited nonpublic school for purposes related to elementary, middle, or secondary schools or secondary vocation centers.

"Qualitative analysis" means identification of an analyte in a substance or mixture.

"Quality assurance" means a set of operating principles to produce data of known accuracy and precision. "Quality assurance" encompasses employee training, equipment preventative maintenance procedures, calibration procedures, and quality control testing, among other things.

"Quality control" means a set of measures implemented within an analytical procedure to ensure that the measurement system is operating in a state of statistical control in which errors have been reduced to acceptable levels.

"Quality control samples" means samples produced and used for the purpose of assuring quality control. Quality control samples include but are not limited to blank samples, spike samples, duplicate samples, and reference material samples.

"Quantitative analysis" means measurement of the quantities of chemical components present in a substance or mixture. Quantitative analysis typically uses a certified reference material, if available, to create a calibration curve.

"Reagent" means a compound or mixture added to a system to cause a chemical reaction or to test if a reaction occurs. A reagent may be used to tell whether or not a specific chemical substance is present by causing a reaction to occur with the chemical substance.

"Recall" means the return of medical cannabidiol from patients and dispensaries to a manufacturer because of the potential for serious health consequences from the use of the medical cannabidiol.

"Reference material" means a material containing a known concentration of an analyte of interest that is in solution or in a homogeneous matrix. Reference material is used to document the bias of the analytical process.

"Reference method" means a method by which the performance of an alternate method is measured or evaluated.

"Relative percent difference" or *"RPD"* means a comparative statistic used to calculate precision or random error. RPD is calculated using the following equation: RPD = absolute value (primary sample measurement - duplicate sample measurement) / ([primary sample measurement + duplicate sample measurement] / 2) × 100.

"Relative standard deviation" or *"RSD"* means the standard deviation expressed as a percentage of the mean recovery. "RSD" is the coefficient of variation multiplied by 100. If any results are less than the limit of quantitation, then the absolute value of the limit of quantitation is used in the following equation: RSD = (s / x) × 100, where s = standard deviation and x = mean recovery.

"Requester" means a person who submits a request to a licensed testing laboratory for state-mandated testing of medical cannabis goods. The requester may be a licensed manufacturer or the department.

"Residual solvents and processing chemicals" means volatile organic chemicals that are used or produced in the manufacture or production of medical cannabidiol.

"Restricted access area" means a building, room, or other contiguous area on the premises where plant material is grown, cultivated, harvested, stored, packaged, or processed for sale under control of the manufacturer, and where no person under the age of 18 is permitted.

"Sample" means a representative part of or a single item from a larger whole or group.

"Sanitize" means to sterilize, disinfect, or make hygienic.

"Semiquantitative analysis" means less than quantitative precision and does not involve a full calibration. Analyte identification is based on a single-point reference or high-probability library match. The determination of amount uses the ratio of the unknown chemical analyte to that of a known analyte added to the sample before analysis. Uncertainty for semiquantitative results is higher than for quantitative results.

"Significant figures" means the number of digits used to express a measurement.

"Stability" or *"stable"* means that after storage of an unopened package of medical cannabidiol, 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. 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.

"Standard operating procedure" means a written document that provides detailed instructions for the performance of all aspects of an analysis, operation, or action.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Synthetic cannabinoid" means a designed compound with structural features that allow binding to the known cannabinoid receptors present in human cells and that produce biological effects similar to those of natural cannabinoids.

"Tamper-evident" means that one or more one-time-use seals are affixed to the opening of a package, allowing a person to recognize whether or not the package has been opened.

"Target organism" means an organism that is being tested for in an analytical procedure or test method.

"Testing laboratory record" means information relating to the testing laboratory and the analyses it performs that is prepared, owned, used, or retained by the laboratory and includes electronic files and video footage.

"THC" or *"delta-9 THC"* means tetrahydrocannabinol, Chemical Abstracts Service number 1972-08-3.

"THCA" means tetrahydrocannabinolic acid, Chemical Abstracts Service number 23978-85-0.

"Untreatable pain" means any pain whose cause cannot be removed and, according to generally accepted medical practice, the full range of pain management modalities appropriate for the patient has been used without adequate result or with intolerable side effects.

"Validation" means the confirmation by examination and objective evidence that the particular requirements for a specific intended use are fulfilled.

"Written certification" means a document signed by a health care practitioner, with whom the patient has established a patient-provider relationship, which states that the patient has a debilitating medical condition and identifies that condition and provides any other relevant information.

ITEM 2. Amend rule 641—154.14(124E) as follows:

641—154.14(124E) Form and quantity of medical cannabidiol.

~~**154.14(1)** *Patient.* A patient in possession of a valid medical cannabidiol registration card issued pursuant to this chapter shall not possess a quantity of medical cannabidiol in excess of 32 ounces.~~

~~**154.14(2)** *Primary caregiver.* A primary caregiver in possession of a valid medical cannabidiol registration card issued pursuant to this chapter shall not possess a quantity of medical cannabidiol in excess of 32 ounces for each patient for whom the person is registered as a primary caregiver.~~

~~**154.14(3)** *Form and quantity.*~~ The form and quantity of medical cannabidiol authorized in this rule may be modified pursuant to recommendations by the medical cannabidiol board ~~established pursuant to Iowa Code chapter 124E and~~, subsequent approval of the recommendations by the board of medicine and adoption of the recommendations by the department by rule.

154.14(1) *Quantity.* A 90-day supply is the maximum amount of each product that shall be dispensed by a dispensary at one time.

154.14(2) *Form.*

a. A manufacturer may only manufacture medical cannabidiol in the following forms:

(1) Oral forms, including but not limited to:

1. Tablet.
2. Capsule.
3. Liquid.

4. Tincture.
5. Sublingual.
(2) Topical forms, including but not limited to:
1. Gel.
2. Ointment, cream or lotion.
3. Transdermal patch.
(3) Nebulizable inhaled forms.
(4) Rectal/vaginal forms, including but not limited to suppository.
b. A manufacturer may not produce medical cannabidiol in any form that may be smoked.
c. A manufacturer may not produce medical cannabidiol in an edible form as defined in rule 641—154.1(124E).

ITEM 3. Amend paragraph **154.17(2)"h"** as follows:

h. Sell medical cannabidiol that is not packaged and labeled in accordance with rule ~~645—154.21(124E)~~ 641—154.21(124E);

ITEM 4. Amend subparagraph **154.21(1)"c"(1)** as follows:

(1) Of sufficient size to accommodate a separate dispensary label containing the information described in rule ~~645—154.46(124E)~~ 641—154.46(124E);

ITEM 5. 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 ~~levels~~ concentrations of tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid;

(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) ~~Date of expiration~~ Product expiration date;

(7) The date of manufacture and lot number;

(8) 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.";

(9) The universal warning symbol provided by the department; and

(10) 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 dispensary for disposal."

b. Labeling text shall not include any false 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.

ITEM 6. Amend subrules 154.26(1), 154.26(3) and 154.26(4) as follows:

154.26(1) *Quality control program.* A manufacturer shall develop and implement a written quality assurance program that assesses the chemical and microbiological composition of medical cannabidiol. Assessment includes a profile of the active ingredients, including shelf life, and the presence of inactive ingredients and contaminants. A manufacturer shall use these testing results to determine appropriate storage conditions and product expiration dates.

154.26(3) *Sampling and testing.* A manufacturer shall:

a. Work with the department and laboratory personnel to develop acceptance criteria for all potential contaminants based on the levels of metals, microbes, or other contaminants that the manufacturer uses in cultivating and producing medical cannabidiol;

b. Conduct sampling and testing of all medical cannabidiol lots using acceptance criteria that are protective of patient health. At a minimum, testing of lots shall occur after packaging but before transport or sale to a dispensary. 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;

c. Refrain from ~~packing~~ packaging or selling ~~a~~ medical cannabidiol from a process lot that fails to meet established standards, specifications, and any other relevant quality control criteria. ~~Lots~~ Medical cannabidiol from a process lot that ~~fail~~ fails quality assurance testing ~~for potency or for residual solvents and chemicals~~ may be remixed and retested;

d. Reject and destroy medical cannabidiol from a lot that fails to meet established standards, specifications, and any other relevant quality control criteria except for potency of CBD and THC. Medical cannabidiol from a lot that fails quality assurance testing based on potency of CBD or THC may be remixed and retested;

~~*d.*~~ *e.* Develop and follow a written procedure for responding to results failing to meet established standards, specifications, and any other relevant quality control criteria, including:

(1) Criteria for when remixing and retesting are warranted;

(2) Instructions for destroying contaminated or substandard medical cannabidiol as provided in subrule 154.23(2) when remixing and retesting are not warranted; and

(3) Instructions for determining the source of contamination;

~~*e.*~~ *f.* Retain documentation of test results, assessment, and destruction of medical cannabidiol for at least five years.

154.26(4) *Stability testing.*

a. The quality assurance program shall include procedures for performing stability testing of each product type produced to determine product ~~shelf-life~~ expiration dates. The procedures shall describe:

(1) Sample size and test intervals based on statistical criteria for each attribute examined to ensure valid stability estimates;

(2) Storage conditions for samples retained for testing; and

(3) Reliable and specific test methods.

b. Stability studies shall include:

(1) Medical cannabidiol testing at appropriate intervals; and

(2) Medical cannabidiol testing in the same container-closure system in which the medical cannabidiol is marketed and dispensed.

c. If ~~shelf-life~~ product-expiration-date studies have not been completed before December 1, 2018, a manufacturer shall assign a tentative product expiration date, not to exceed one year, based on any available stability information. A manufacturer shall concurrently conduct stability studies to determine the actual product expiration date.

d. After a manufacturer verifies the tentative product expiration date, or determines the appropriate product expiration date, a manufacturer shall include that product expiration date on each lot of medical cannabidiol.

e. Stability testing shall be repeated if the manufacturing process or the product's chemical composition is changed.

ITEM 7. Reserve rules **641—154.66** to **641—154.69**.

ITEM 8. Adopt the following **new** heading to precede rule 641—154.70(124E):

LABORATORY TESTING

ITEM 9. Adopt the following **new** rules 641—154.70(124E) to 641—154.76(124E):

641—154.70(124E) Requirements of a laboratory.

154.70(1) *Minimum testing requirements.* A laboratory shall establish and implement test methods and corresponding standard operating procedures for the analyses of cannabinoids, residual solvents and processing chemicals, pesticides, microbiological impurities, and metals.

154.70(2) *Additional tests upon request.* A laboratory shall establish and implement test methods and corresponding standard operating procedures for other analyses as requested by the department.

154.70(3) *Level of quantitation.* A laboratory shall be able to demonstrate that its LOQ is below any action level established by the department.

154.70(4) *Inventory tracking.*

a. A laboratory shall use the department's secure sales and inventory tracking system, if available, or a manifest system to record the receipt of medical cannabis goods from a manufacturer for testing.

b. A laboratory shall use the department's secure sales and inventory tracking system, if available, or a manifest system to record the return of medical cannabis goods or waste to a manufacturer.

154.70(5) *Hazardous waste disposal.*

a. A laboratory shall discard hazardous waste, including hazardous waste containing medical cannabis goods, in accordance with federal and state hazardous waste laws.

b. A laboratory shall document the waste disposal procedures followed for each sample.

641—154.71(124E) Requirements of a manufacturer.

154.71(1) *Assuming costs.* A manufacturer shall assume the costs for all laboratory testing requested by the department or laboratory for medical cannabis goods produced by the manufacturer.

154.71(2) *Sample waste retrieval.* A manufacturer shall retrieve analyzed samples and waste containing medical cannabis goods from the laboratory at a duration and frequency approved by the department.

641—154.72(124E) Content testing.

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;
(4) CBDA;
(5) CBG; and
(6) CBN.

b. A laboratory shall report that the primary sample passed 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 or less than 15 percent by weight in mg/ml for liquids and mg/g for solids. 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 or less 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 CBD potency testing if the detected concentration of CBD does not vary from the manufacturer's labeled concentration by more or less than 15 percent by weight in mg/ml for liquids and mg/g for solids. 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 or less 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."*

g. The laboratory may test for and provide test results for additional cannabinoid analytes if asked to do so by a requester.

154.72(2) *Contaminants—residual solvents and processing chemicals.*

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 analyze primary samples for residual solvents and processing chemicals.

b. The department shall provide a list of residual solvents and processing chemicals for which primary samples are to be tested with corresponding action levels on the department's website (www.idph.iowa.gov).

c. For each residual solvent or processing chemical for which a primary sample is tested, a laboratory shall report that the primary sample passed the testing if the concentration of residual solvent or processing chemical is at or below the action level approved by the department.

d. For each residual solvent or processing chemical for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the concentration of residual solvent or processing chemical is above the action level approved by the department.

e. If a laboratory is using mass spectrometry instrumentation to analyze primary samples for residual solvents and processing chemicals and the laboratory determines that a primary sample contains residual solvent or processing chemical analytes that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification and semiquantitative results of the residual solvent or processing chemical analytes.

f. The laboratory may test for and provide test results for additional residual solvents or processing chemicals if asked to do so by a requester.

g. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name and concentration of each residual solvent or processing chemical for which the primary sample was tested.

1. The concentrations shall be listed in parts per million (ppm) or other units as determined by the department.

2. The laboratory shall report a result of "detected but not quantified" for any target residual solvent or processing chemical that falls below the LOQ, has a signal-to-noise ratio of greater than 3:1, and meets identification criteria.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(2)*"c"* and 154.72(2)*"d."*

(3) The names and amounts of any additional residual solvents and processing chemicals identified by the laboratory.

h. If the primary sample fails testing for residual solvents and processing chemicals, the lot fails laboratory testing.

i. When a laboratory identifies additional residual solvents and processing chemicals in a primary sample, the laboratory shall:

(1) Notify the department of the additional residual solvents and processing chemicals and the amounts detected.

(2) Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.72(3) *Contaminants—pesticides.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, the laboratory shall analyze primary samples for pesticides.

b. The department shall provide a list of pesticides for which primary samples are to be tested with corresponding action levels on the department's website (www.idph.iowa.gov).

c. For each pesticide for which a laboratory tests, the laboratory shall report that the primary sample passed the testing if the concentration of pesticide is at or below the action level approved by the department.

d. For each pesticide for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the concentration of pesticide is above the action level approved by the department.

e. If a laboratory is using mass spectrometry instrumentation to analyze primary samples for pesticides and the laboratory determines that a primary sample contains pesticide analytes that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification and semiquantitative results of the pesticide analytes.

f. The laboratory may test for and provide test results for additional pesticides if asked to do so by a requester.

g. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name and concentration of each pesticide for which the primary sample was tested.

1. The concentrations shall be listed in parts per million (ppm) or other units as determined by the department.

2. The laboratory shall report a result of "detected but not quantified" for any pesticide that falls below the LOQ, has a signal-to-noise ratio of greater than 3:1, and meets identification criteria.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(3)*"c"* and 154.72(3)*"d."*

(3) The names and amounts of any additional pesticides identified by the laboratory.

h. If the primary sample fails testing for pesticides, the lot fails laboratory testing.

i. When a laboratory identifies additional pesticides in a primary sample, the laboratory shall:

(1) Notify the department of the additional pesticides and the amounts detected.

(2) Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.72(4) *Contaminants—metals.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, the laboratory shall analyze primary samples for metals.

b. The department shall provide a list of metals for which primary samples are to be tested with corresponding action levels on the department's website (www.idph.iowa.gov).

c. For each metal for which a laboratory tests, the laboratory shall report that the primary sample passed the testing if the concentration of metal is at or below the action level approved by the department.

d. For each metal for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the concentration of metal is above the action level approved by the department.

e. If a laboratory is using mass spectrometry instrumentation to analyze primary samples for metals and the laboratory determines that a primary sample contains metal analytes that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification and semiquantitative results of the metal analytes.

f. The laboratory may test for and provide test results for additional metals if asked to do so by a requester.

g. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name and concentration of each metal for which the primary sample was tested.

1. The concentrations shall be listed in micrograms per gram or other units as determined by the department.

2. The laboratory shall report a result of "detected but not quantified" for any metal that falls below the LOQ, has a signal-to-noise ratio of greater than 3:1, and meets identification criteria.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(4)*"c"* and 154.72(4)*"d."*

(3) The names and amounts of any additional metals identified by the laboratory.

h. If the primary sample fails testing for metals, the lot fails laboratory testing.

i. When a laboratory identifies additional metals in a primary sample, the laboratory shall:

(1) Notify the department of the additional metals and the amounts detected.

(2) Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.72(5) *Contaminants—microbiological impurities.*

a. For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, the laboratory shall analyze primary samples for microbiological impurities.

b. The department shall provide a list of microbiological impurities for which primary samples are to be tested on the department's website (www.idph.iowa.gov).

c. For each microbiological impurity for which a laboratory tests, the laboratory shall report that the primary sample passed the testing if the microbiological impurity is not detected in 1 gram of matrix or as approved by the department. A primary sample may be reported as passed if a screening procedure yields a negative result or if a presumptively positive result is not found to be positive on the confirmatory procedure.

d. For each microbiological impurity for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the microbiological impurity is detected in 1 gram of matrix or as approved by the department. Confirmatory procedures shall be conducted on all presumptively positive results.

e. If a laboratory is using methods to test primary samples for microbiological impurities and the laboratory determines that a primary sample contains microbiological impurities that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification of the biological impurity.

f. The laboratory may test for and provide test results for additional microbiological impurities if asked to do so by a requester.

g. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name of each microbiological impurity for which the primary sample was tested.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.72(5)*"c"* and 154.72(5)*"d."*

(3) The names of any additional microbiological impurities identified by the laboratory.

h. If the primary sample fails testing for microbiological impurities, the lot fails laboratory testing.

i. When a laboratory identifies additional microbiological impurities in a primary sample, the laboratory shall:

(1) Notify the department of the additional microbiological impurities detected.

(2) Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.72(6) *Additional tests.* The laboratory may perform additional tests if asked to do so by a requester.

641—154.73(124E) Reporting requirements.

154.73(1) *Reporting test results.* The laboratory shall generate a certificate of analysis for each primary sample that it tests and make the certificate of analysis available to the manufacturer who ordered the tests and the department through the department's secure sales and inventory tracking system, if available, or another laboratory information management system.

154.73(2) *Tentatively identified analytes.* A laboratory shall report on the certificate of analysis any tentatively identified analytes detected during the analysis of the primary sample. When a laboratory identifies additional analytes in a primary sample, the laboratory shall:

a. Notify the department of the additional analytes detected.

b. Refrain from issuing a final certificate of analysis to a manufacturer until given approval to do so by the department.

154.73(3) *Additional reporting requirements.*

a. In addition to the requirements described in rule 641—154.72(124E), the certificate of analysis shall contain, at a minimum, the following information:

(1) All requirements of Standard ISO/IEC 17025;

(2) Date of primary sample collection;

(3) Date the primary sample was received by the laboratory;

(4) Date of each analysis;

(5) The LOQ and action level for each analyte, as applicable;

(6) Whether the primary sample and lot passed or failed laboratory testing; and

(7) A signature by the laboratory quality officer and the date the certificate of analysis was validated as being accurate by the laboratory quality officer.

b. Any test result that is not covered under the laboratory's ISO/IEC 17025 scope of accreditation shall be clearly identified on the certificate of analysis.

c. Measurements below a method's limit of detection shall be reported as "<" (less than) or "not detected" and reference the reportable limit. The reporting of zero concentration is not permitted.

d. Measurements ≥ LOD but < LOQ shall be reported as "detected but not quantified."

e. The number of significant figures reported shall reflect the precision of the analysis.

641—154.74(124E) Record-keeping requirements.

154.74(1) *Data package.* A laboratory shall create a data package for each analytical batch of primary samples that the laboratory analyzes. The data package shall contain at minimum the following information:

a. The name and address of the laboratory that performed the analytical procedures;

b. The names, functions, and signatures (electronic or handwritten) of the laboratory personnel that performed the primary sample preparation, analyzed the primary samples, and reviewed and approved the data;

c. All primary sample and analytical batch quality control sample results;

d. Raw data for each primary sample analyzed;

e. Instrument raw data, if any was produced;

f. Instrument test method with parameters;

g. Instrument tune report, if one was created;

h. All instrument standard calibration data;

i. Test-method worksheets or forms used for primary sample identification, characterization, and calculations, including chromatograms, sample-preparation worksheets, and final datasheets;

j. The quality control report with worksheets, forms, or copies of laboratory notebook pages containing pertinent information related to the identification and traceability of all reagents, reference materials, and standards used for analysis;

k. The analytical batch sample sequence;

l. The field sample log; and

m. The chain-of-custody form.

154.74(2) *Review of data package.* After the laboratory has compiled a data package, another individual at the laboratory shall independently review the data package. The reviewer shall:

a. Assess the analytical results for technical correctness and completeness;

b. Verify that the results of each analysis carried out by the laboratory are reported accurately, clearly, unambiguously, and objectively;

c. Verify that the measurements can be traced back; and

d. Approve the measurement results by signing and dating the data package prior to release of the certificate of analysis by the laboratory.

154.74(3) *Data package record retention.* The entire data package shall be stored by a laboratory for a minimum of five years and shall be made available upon request by the department or the requester of the laboratory testing.

154.74(4) *Other records.* A laboratory shall maintain all documents, forms, records, and standard operating procedures associated with the testing of medical cannabis goods.

a. A laboratory shall maintain analytical testing laboratory records in such a manner that the analyst, the date the analysis was performed, the approver of the certificate of analysis, the reviewer and approver of the data package, the test method, and the materials that were used can be determined by the department.

b. Records shall be stored in such a way that the data may be readily retrieved when requested by the department.

c. All testing laboratory records shall be kept for a minimum of five years, unless otherwise noted in these rules.

d. The department shall be allowed access to all electronic data, including standards records, calibration records, extraction logs, and laboratory notebooks.

e. A laboratory shall keep and make available to the department the following records related to the testing of medical cannabis goods:

(1) Personnel qualification, training, and competency documentation, including but not limited to résumés, training records, continuing education records, analytical proficiency testing records, and demonstration of competency records for laboratory work. These records shall be kept current.

(2) Method verification and validation records, including method modification records, method detection limit and quantitation limit determination records, ongoing verification records such as proficiency test records and reference material analysis records.

(3) Quality control and quality assurance records, including the laboratory's quality assurance manual and control charts with control limits.

(4) Chain-of-custody records, including chain-of-custody forms, field sample logs, sample-receipt records, sample-description records, sample-rejection records, laboratory information management system records, sample-storage records, sample-retention records, and disposal records.

(5) Purchasing and supply records, equipment-services records, and other equipment records, including purchase requisition records, packing slips, supplier records, and certificates of analysis.

(6) Laboratory equipment installation records, maintenance records, and calibration records. These records shall include the date and name of the person performing the installation of, calibration of, or maintenance on the equipment, with a description of the work performed, maintenance logs, pipette calibration records, balance calibration records, working and reference mass calibration records, and daily verification-of-calibration records.

(7) Customer service records, including customer contracts, customer requests, certificates of analysis, customer transactions, customer feedback, records related to the handling of complaints and nonconformities, and corrective action pertaining to complaints.

(8) Nonconforming work and corrective action records, including corrective action, nonconformance, nonconformities resolved by correction, customer notification of nonconformities, internal investigations, implementation of corrective action, and resumption-of-work records.

(9) Internal-audit and external-audit records, including audit checklists, standard operating procedures, and audit observation and findings reports. These records shall include the date and name of the person performing the audit.

(10) Management review records, including technical data review reports and final management-review reports. These records shall include the review date and the name of the reviewer.

(11) Laboratory data reports, data review, and data approval records, including instrument and equipment identification records, records with unique sample identifiers, analysts' laboratory notebooks and logbooks, traceability records, test-method worksheets and forms, instrumentation-calibration data, and test-method raw data. These records shall include the analysis date and the name of the analyst.

(12) Proficiency testing records, including the proficiency test schedule, proficiency tests, data-review records, data-reporting records, nonconforming work and corrective actions, and quality control and quality assurance records related to proficiency testing.

(13) Electronic data, backed-up data, records regarding the protection of data, including unprocessed instrument output data files and processed quantitation output files, electronic data protocols and records, and authorized personnel records.

(14) Security data, including laboratory-security records and laboratory-access records, surveillance-equipment records, and security-equipment records. These records shall be stored for at least one year.

(15) Traceability, raw data, standards records, calibration records, extraction logs, reference materials records, analysts' laboratory notebooks and logbooks, supplier records, and certificates of analysis, and all other data-related records.

(16) Laboratory contamination and cleaning records, including autoclave records, acid-wash logs and records, and general laboratory-safety and chemical-hygiene protocols.

641—154.75(124E) Quality control. The laboratory shall have quality control protocols that include the following elements:

154.75(1) *Quality control samples required.*

a. The laboratory shall run quality control samples with every analytical batch of samples for chemical and microbiological analysis.

b. For microbiological analysis, the laboratory shall develop procedures for quality control requirements for each analytical batch of samples.

c. The laboratory shall analyze the quality control samples in exactly the same manner as the test samples to validate the laboratory testing results.

154.75(2) *Types of quality control samples.* At a minimum, a laboratory shall have the following quality control samples as part of every analytical batch tested for chemical analytes:

a. Negative control (method blank). A laboratory shall prepare and run at least one method blank sample with an analytical batch of 10 to 20 samples along with and under the same conditions, including all sample preparation steps, as the other samples in the analytical batch, to demonstrate that the analytical process did not introduce contamination.

b. Positive control (laboratory control sample). A laboratory shall prepare and run at least one laboratory control sample with an analytical batch of 10 to 20 samples along with and under the same conditions, including all sample preparation steps, as the other samples in the analytical batch.

c. Matrix spike sample. A laboratory shall prepare and run one or more matrix spike samples for each analytical batch.

(1) A laboratory shall calculate the percent recovery for quantitative chemical analysis by dividing the sample result by the expected result and multiplying that by 100. All quality control measures shall be assessed and evaluated on an ongoing basis, and quality control acceptance criteria shall be used. When necessary, the department may establish acceptance criteria on the department's website (www.idph.iowa.gov).

(2) If quality control acceptance criteria are not acceptable, a laboratory shall investigate the cause, correct the problem, and rerun the analytical batch of samples. If the problem persists, the laboratory shall reprepare the samples and run the analysis again, if possible.

d. Field duplicate sample. A laboratory shall prepare and run a duplicate sample with every 10 to 20 samples for each analytical method. The acceptance criterion between the primary sample and the duplicate sample is less than 20 percent relative percentage difference.

154.75(3) *Certified reference material for chemical analysis.* The laboratory shall use a reference material for each analytical batch in accordance with the following standards:

a. The reference material should be certified and obtained from an outside source, if possible. If a reference material is not available from an outside source, the laboratory shall make its own in-house reference material.

b. Reference material made in-house should be made from a different source of standards than the source from which the calibration standards are made.

c. The test result for the reference material shall fall within the quality control acceptance criteria. If it does not, the laboratory shall document and correct the problem and run the analytical batch again.

154.75(4) *Calibration standards.* The laboratory shall prepare calibration standards by serially diluting a standard solution to produce working standards used for calibration of an instrument and quantitation of analyses in samples.

154.75(5) *Quality control-sample report.* A laboratory shall generate a quality control-sample report that includes quality control parameters and measurements, analysis date, and type of matrix.

154.75(6) *Limit-of-detection and limit-of-quantitation calculations.* For chemical method analysis, a laboratory shall calculate the limit of detection and limit of quantitation using generally accepted methodology.

641—154.76(124E) Security requirements. The department may request assistance from the department of public safety in ensuring a laboratory meets the security requirements in this rule.

154.76(1) *Security policy requirement.* A laboratory shall maintain a security policy to prevent the loss, theft, or diversion of medical cannabis goods and samples. The security policy shall apply to all staff and visitors at a laboratory facility.

154.76(2) *Visitor logs.* Visitors to a laboratory facility shall sign visitor manifests with name, date, and times of entry and exit, and shall wear badges that are visible at all times and that identify them as visitors.

154.76(3) *Restricted access.* A laboratory shall use a controlled access system and written manifests to limit entrance to all restricted access areas of its laboratory facility and shall retain a record of all persons who entered the restricted access areas.

a. The controlled access system shall do all of the following:

(1) Limit access to authorized individuals;

(2) Maintain a log of individuals with approved access, including dates of approvals and revocations;

(3) Track times of personnel entry;

(4) Track times of personnel movement between restricted access areas;

(5) Store data for retrieval for a minimum of one year; and

(6) Remain operable in the event of a power failure.

b. Separate written manifests of visitors to restricted areas shall be kept and stored for a minimum of one year if the controlled access system does not include electronic records of visitors to the restricted areas.

c. A laboratory shall promptly, but no later than five business days after receipt of request, submit stored controlled access system data to the department.

154.76(4) *Personnel identification system.* A laboratory shall use a personnel identification system that controls and monitors individual employee access to restricted access areas within the laboratory facility and that meets the requirements of this subrule and subrule 154.76(2).

a. Requirement for employee identification card. An employee identification card shall contain:

(1) The name of the employee;

(2) The date of issuance;

(3) An alphanumeric identification number that is unique to the employee; and

(4) A photographic image of the employee.

b. A laboratory employee shall keep the identification card visible at all times when the employee is in the laboratory.

c. Upon termination or resignation of an employee, a laboratory shall immediately:

(1) Revoke the employee's access to the laboratory; and

(2) Obtain and destroy the employee's identification card, if possible.

154.76(5) *Video monitoring and surveillance.*

a. Video surveillance system. A laboratory shall operate and maintain in good working order a video surveillance system for its premises that operates 24 hours per day, seven days a week, and visually records all areas where medical cannabis goods are stored or tested.

b. Camera specifications. Cameras shall:

(1) Capture clear and certain identification of any person entering or exiting a restricted access area containing medical cannabis goods;

(2) Have the ability to produce a clear, color still photograph live or from a recording;

(3) Have on all recordings an embedded date-and-time stamp that is synchronized to the recording and does not obscure the picture; and

(4) Continue to operate during a power outage.

c. Video recording specifications.

(1) A video recording shall export still images in an industry standard image format, such as .jpg, .bmp, or .gif.

(2) Exported video shall be archived in a format that ensures authentication and guarantees that the recorded image has not been altered.

(3) Exported video shall also be saved in an industry standard file format that can be played on a standard computer operating system.

(4) All recordings shall be erased or destroyed at the end of the retention period and prior to disposal of any storage medium.

d. Additional requirements. A laboratory shall maintain all security system equipment and recordings in a secure location to prevent theft, loss, destruction, corruption, and alterations.

e. Retention. A laboratory shall ensure that 24-hour recordings from all video cameras are:

(1) Available for viewing by the department upon request;

(2) Retained for a minimum of 60 days;

(3) Maintained free of alteration or corruption; and

(4) Retained longer, as needed, if a manufacturer is given actual notice of a pending criminal, civil, or administrative investigation, or other legal proceeding for which the recording may contain relevant information.

154.76(6) *Chain-of-custody policy and procedures.* A laboratory shall maintain a current chain-of-custody policy and procedures. The policy should ensure that:

a. Chain of custody is maintained for samples which may have probable forensic evidentiary value; and

b. Annual training is available for individuals who will be involved with testing medical cannabis goods.

154.76(7) *Information technology systems security.* A laboratory shall maintain information technology systems protection by employing comprehensive security controls that include security firewall protection, antivirus protection, network and desktop password protection, and security patch management procedures.

[Filed 5/9/18, effective 7/11/18]
[Published 6/6/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/6/18.

ARC 3837C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to tax incentives

The Revenue Department hereby amends Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest," Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 52, "Filing Returns,

Payment of Tax, Penalty and Interest, and Tax Credits," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 15.119 and 15.352 to 15.355.

Purpose and Summary

Item 1 amends subrule 12.19(2) to correct an error in terminology. The current version of the rule lists "furniture and fixtures" as ineligible for the sales and use tax refund provided by Iowa Code section 15.331A. However, the relevant statute uses the terms "furniture and furnishings" rather than "furniture and fixtures." The amendment also establishes a definition of "furnishings" to provide a common definition of furnishings and to clarify what types of items are ineligible for the sales and use tax refund. Item 1 also amends subrule 12.19(3) to adopt by reference the definition of "project completion" as defined in Iowa Code section 15.355(2).

Items 2 and 3 amend rules 701—42.53(15) and 701—52.46(15), which implement the Workforce Housing Tax Incentives Program for individual income tax and corporation income tax, respectively, to comply with a change to the law enacted by 2017 Iowa Acts, Senate File 488, sections 1 to 8. The amendments to these rules also remove language that is duplicative of language provided in rules administered by the Iowa Economic Development Authority and clarify that there is no limit to the number of times a tax credit may be transferred, that the tax credit is transferable in variable denominations, and that the same carryforward rules apply to transferees. Additional amendments are proposed to improve readability.

Item 4 amends rule 701—58.23(15) to remove language that is duplicative of language elsewhere in the Department's rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 11, 2018, as **ARC 3724C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on May 16, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrules 12.19(2) and 12.19(3) as follows:

12.19(2) *Sales and use tax ineligible for refund.* The sales and use tax for which the eligible business cannot receive a refund consists of the following:

a. Any local option sales tax paid is not eligible for the refund. The refund is limited to the state sales and use tax paid.

b. Any sales and use tax attributable to intangible property, ~~and~~ furniture ~~and fixtures~~, or furnishings is not eligible for the refund. "Furnishings" means any furniture, appliances, equipment, and accessories that are movable and with which a room or building is furnished for comfort, convenience, or aesthetic value. Examples include rugs, décor, and window coverings. "Furnishings" does not include installed flooring such as hardwood, carpet, ceramic, stone, laminate, or vinyl.

12.19(3) *Claiming the refund.* To receive the refund, the eligible business must file a claim for refund within one year of project completion. For a manufacturing facility, project completion is the first date upon which the average annualized production of finished project for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility. For purposes of the workforce housing tax incentives program, "project completion" means the same as defined in Iowa Code section 15.355(2). For all other facilities, project completion is the date of completion of all improvements necessary for the start-up, location, expansion or modernization of the business.

a. to *c.* No change.

ITEM 2. Amend rule 701—42.53(15) as follows:

701—42.53(15) Workforce housing tax incentives program. ~~Effective July 1, 2014, a~~ A business which qualifies under the workforce housing tax incentives program is eligible to receive tax incentives for individual income tax. The workforce housing tax incentives program ~~replaces~~ replaced the eligible housing business enterprise zone program. An eligible business under the workforce housing tax incentives program must be approved by the economic development authority ~~and must meet the requirements of 2014 Iowa Acts, House File 2448, section 15~~. The administrative rules for the workforce housing tax incentives program for the economic development authority may be found at 261—Chapter 48. The general assembly has mandated that the economic development authority and the department of revenue adopt rules to jointly administer Iowa Code sections 15.351 to 15.356. In general, the economic development authority is responsible for evaluating whether projects meet the requirements for a workforce housing tax incentives program while the department of revenue administers tax credit claims and transfers.

42.53(1) *Definitions.*

"Costs directly related" means ~~expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. "Costs directly related" includes expenditures for property acquisition, site preparation work, surveying, construction materials, construction labor, architectural services, engineering services, building permits, building inspection fees, and interest accrued on a construction loan during the time period allowed for project completion under an agreement entered into pursuant to the program. "Costs directly related" does not include expenditures for furnishings, appliances, accounting services, legal services, loan~~

~~origination and other financing costs, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project~~ the same as defined in rule 261—48.3(15).

"Qualifying new investment" means ~~costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, "costs directly related to acquisition" includes the costs associated with the purchase of real property or other structures. "Qualifying new investment" includes costs that are directly related to new construction of dwelling units if the new construction occurs in a distressed workforce housing community. The amount of costs that may be used to compute "qualifying new investment" shall not exceed the costs used for the first $150,000 of value for each dwelling unit that is part of a housing project~~ the same as defined in rule 261—48.3(15).

~~"Qualifying new investment" does not include the following:~~

~~1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.~~

~~2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.~~

~~3. Any costs, including acquisition costs, incurred before the housing project is approved by the economic development authority.~~

42.53(2) *Workforce housing tax incentives.* The economic development authority will allocate no more than $20 million in tax incentives for this program for any fiscal year, $5 million of which shall be reserved for allocation to qualified housing projects in small cities, as defined in Iowa Code section 15.352(10), that are registered on or after July 1, 2017. A housing business that has entered into an agreement with the economic development authority is eligible to receive the tax incentives described in the following paragraphs:

a. Sales tax refund. A housing business may claim a refund of the sales and use tax described in rule ~~701—12.9(15)~~ 701—12.19(15).

b. Investment tax credit.

(1) Computation of the credit. A housing business may claim a tax credit in an amount not to exceed 10 percent of the qualifying new investment in a housing project not located in a small city, or 20 percent of the qualifying new investment in a housing project located in a small city.

(2) Allocation of the tax credit to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim a tax credit if the housing business is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

(3) Refundability. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable ~~but~~.

(4) Carryforward. Any tax credit in excess of the taxpayer's liability may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

42.53(3) *Claiming the tax credit—information required.* The taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.53(5). The tax credit certificate must be included with the income tax return for the tax period in which the housing is ready for occupancy.

42.53(4) *Basis adjustment.* The increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the investment tax credit. For example,

if a new housing project had qualifying new investment of $1 million which resulted in a $100,000 investment tax credit for Iowa tax purposes, the basis of the property for Iowa income tax purposes would be $900,000.

42.53(5) *Transfer of the credit.*

a. Submission of transferred tax credit certificate to the department—information required. Tax credit certificates issued under an agreement entered into pursuant to subrule 42.53(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit certificate amounts of less than the minimum amount established in rule by the economic development authority shall not be transferable.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

c. Claiming the transferred tax credit. A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income, or franchise tax purposes.

d. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than the minimum amount established in rule by the economic development authority.

e. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in subparagraph 42.53(2)*"b"*(4) shall apply.

42.53(6) *Repayment of benefits.* If the housing business fails to maintain the requirements of Iowa Code section 15.353, the taxpayer may be required to repay all or a portion of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure of the taxpayer to maintain the requirements of ~~2014 Iowa Acts, House File 2448, section 15~~ Iowa Code section 15.353. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement ~~2014 Iowa Acts, House File 2448~~ Iowa Code sections 15.354 and 15.355.

ITEM 3. Amend rule 701—52.46(15) as follows:

701—52.46(15) Workforce housing tax incentives program. ~~Effective July 1, 2014, a~~ A business which qualifies under the workforce housing tax incentives program is eligible to receive tax incentives for corporation income tax. The workforce housing tax incentives program ~~replaces~~ replaced the eligible

housing enterprise zone program. An eligible business under the workforce housing tax incentives program must be approved by the economic development authority ~~and must meet the requirements of 2014 Iowa Acts, House File 2448, section 15~~. The administrative rules for the workforce housing tax incentives program for the economic development authority may be found at 261—Chapter 48. The general assembly has mandated that the economic development authority and the department of revenue adopt rules to jointly administer Iowa Code sections 15.351 to 15.356. In general, the economic development authority is responsible for evaluating whether projects meet the requirements for a workforce housing tax incentives program while the department of revenue administers tax credit claims and transfers.

52.46(1) *Definitions.*

"Costs directly related" means ~~expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. "Costs directly related" includes expenditures for property acquisition, site preparation work, surveying, construction materials, construction labor, architectural services, engineering services, building permits, building inspection fees, and interest accrued on a construction loan during the time period allowed for project completion under an agreement entered into pursuant to the program. "Costs directly related" does not include expenditures for furnishings, appliances, accounting services, legal services, loan origination and other financing costs, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project~~ the same as defined in rule 261—48.3(15).

"Qualifying new investment" means ~~costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, "costs directly related to acquisition" includes the costs associated with the purchase of real property or other structures. "Qualifying new investment" includes costs that are directly related to new construction of dwelling units if the new construction occurs in a distressed workforce housing community. The amount of costs that may be used to compute "qualifying new investment" shall not exceed the costs used for the first $150,000 of value for each dwelling unit that is part of a housing project~~ the same as defined in rule 261—48.3(15).

~~"Qualifying new investment" does not include the following:~~

~~1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.~~

~~2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.~~

~~3. Any costs, including acquisition costs, incurred before the housing project is approved by the economic development authority.~~

52.46(2) *Workforce housing tax incentives.* The economic development authority will allocate no more than $20 million in tax incentives for this program for any fiscal year, $5 million of which shall be reserved for allocation to qualified housing projects in small cities, as defined in Iowa Code section 15.352(10), that are registered on or after July 1, 2017. A housing business that has entered into an agreement with the economic development authority is eligible to receive the tax incentives described in the following paragraphs:

a. Sales tax refund. A housing business may claim a refund of the sales and use tax described in rule ~~701—12.9(15)~~ 701—12.19(15).

b. Investment tax credit.

(1) Computation of the credit. A housing business may claim a tax credit in an amount not to exceed 10 percent of the qualifying new investment in a housing project not located in a small city, or 20 percent of the qualifying new investment in a housing project located in a small city.

(2) Allocation of the tax credit to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim a tax credit if the housing business is a partnership, limited liability

company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

(3) Refundability. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable ~~but~~.

(4) Carryforward. Any tax credit in excess of the taxpayer's liability may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

52.46(3) *Claiming the tax credit—information required.* The taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 52.46(5). The tax credit certificate must be included with the income tax return for the tax period in which the housing is ready for occupancy.

52.46(4) *Basis adjustment.* The increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the investment tax credit. For example, if a new housing project had qualifying new investment of $1 million which resulted in a $100,000 investment tax credit for Iowa tax purposes, the basis of the property for Iowa income tax purposes would be $900,000.

52.46(5) *Transfer of the credit.*

a. Submission of transferred tax credit certificate to the department—information required. Tax credit certificates issued under an agreement entered into pursuant to subrule 52.46(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit certificate amounts of less than the minimum amount established in rule by the economic development authority shall not be transferable.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

c. Claiming the transferred tax credit. A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income, or franchise tax purposes.

d. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than the minimum amount established in rule by the economic development authority.

e. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in subparagraph 52.46(2)*"b"*(4) shall apply.

52.46(6) *Repayment of benefits.* If the housing business fails to maintain the requirements of Iowa Code section 15.353, the taxpayer may be required to repay all or a portion of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer

for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure of the taxpayer to maintain the requirements of Iowa Code section 15.353. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in ~~subrule~~ 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement ~~2014 Iowa Acts, House File 2448~~ Iowa Code sections 15.354 and 15.355.

ITEM 4. Amend rule 701—58.23(15) as follows:

701—58.23(15) Workforce housing tax incentives program. ~~Effective July 1, 2014, a~~ A business which qualifies under the workforce housing tax incentives program is eligible to receive tax incentives for franchise tax. ~~The workforce housing tax incentives program replaces the eligible housing enterprise zone program. An eligible business under the workforce housing tax incentives program must be approved by the economic development authority and must meet the requirements of 2014 Iowa Acts, House File 2448, section 15.~~ For information on how the workforce housing tax incentives can be claimed, how the investment tax credit can be transferred and other details about the workforce housing tax incentives, see rule 701—52.46(15). The administrative rules for the workforce housing tax incentives program for the economic development authority may be found at 261—Chapter 48.

This rule is intended to implement ~~2014 Iowa Acts, House File 2448~~ Iowa Code sections 15.354 and 15.355.

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ARC 3838C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to assessor and deputy assessor examination

The Revenue Department hereby amends Chapter 72, "Examination and Certification of Assessors and Deputy Assessors," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14 and 441.5(4).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 441.5.

Purpose and Summary

The purpose of this rule making is to prescribe the preliminary education requirements that must be completed before a person may sit for an assessor or deputy assessor examination.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 11, 2018, as **ARC 3725C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on May 16, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 72.1(1) as follows:

72.1(1) The application for the examination shall be made on a form prescribed by the director and shall constitute an integral part of the examination. The application form shall require information as to the education, training, and experience of the applicant, including evidence of successful completion of the preliminary education requirements required in subrule 72.3(2), and such other information as the director may deem pertinent. Applications must be received by the department at least three days prior to the date of the examination. Applications filed ~~on or~~ after ~~the effective date of this rule~~ February 9, 1976, shall be considered public records pursuant to Iowa Code chapter 22 (*City of Dubuque v. Telegraph Herald, Inc.,* 297 N.W.2d 523 (Iowa 1980); 1982 O.A.G. 3).

ITEM 2. Amend rule 701—72.3(441) as follows:

701—72.3(441) ~~Equivalent of high school diploma~~ Eligibility requirements to take the examination.

72.3(1) *High school diploma or its equivalent.* Only persons who possess a high school diploma or its equivalent are eligible to take the examination. The equivalent of high school diploma shall consist of a high school equivalency ~~certificate~~ diploma issued by the department of ~~public instruction~~ education pursuant to Iowa Code chapter 259A, a similar document issued by the U.S. armed forces, or a similar document issued by another state.

72.3(2) *Preliminary education requirements.*

a. Only persons who have successfully completed the preliminary education requirements are eligible to take the examination. These requirements may be met by achieving one of the following:

(1) Successful completion of a department-approved course on Iowa assessment and taxation that includes coursework on Iowa laws within the time frame defined in paragraph 72.3(2)*"b"*;

(2) Successful completion of a department-approved course on general appraisal and assessment practice in addition to a department-approved course on Iowa laws. Both courses must be successfully completed within the time frame defined in paragraph 72.3(2)*"b"*; or

(3) Receipt of a currently active department-approved professional appraisal designation from a recognized appraisal organization in conjunction with successful completion of a department-approved course on Iowa laws within the time frame defined in paragraph 72.3(2)*"b"* if the appraisal designation is not already specific to Iowa.

b. All required coursework must be completed within five years prior to the date of the examination.

c. For the purposes of this subrule, "successful completion" shall mean answering a minimum of 70 percent of questions correctly on the test given at the completion of the course.

d. The department will publish a list of approved courses and professional designations on its official website.

This rule is intended to implement Iowa Code section 441.5.

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ARC 3839C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Adopted and Filed

Rule making related to agricultural drainage wells

The Soil Conservation and Water Quality Division hereby amends Chapter 30, "Agricultural Drainage Wells—Alternative Drainage System Assistance Program," and rescinds Chapter 101, "Organization and Purpose," Chapter 102, "Rules of Practice," Chapter 103, "Appointment and Terms of Members," Chapter 104, "Local Watershed Improvement Committees," Chapter 105, "Watershed Improvement Grant Program," Chapter 106, "Watershed Improvement Fund," and Chapter 107, "Public Records and Fair Information Practices," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 161A.4(1) and 460.303(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 460.304(2)"a"(1)(b) and 2017 Iowa Acts, Senate File 510, sections 24 and 25.

Purpose and Summary

The amendments allow for the closure of the last remaining registered agricultural drainage wells through the construction of wetlands with permanent easements as authorized by the Iowa Code. This option could be used if the wetland project would be more cost-effective than alternative drainage and if all project landowners agree. The 75 percent cost-share requirement authorized by rule would not

apply. The amendments also rescind the rules for the Watershed Improvement Review Board. The statutory provisions for the Board were repealed effective January 1, 2018.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 11, 2018, as **ARC 3730C**. No public comments were received. One technical change has been made to Item 1 in new paragraph "h." The phrase "include, but are not limited to" was changed to "including, but not limited to" to reflect similar structure in the previous paragraphs.

Adoption of Rule Making

This rule making was adopted by the Division on May 16, 2018.

Fiscal Impact

This rule making may have a positive fiscal impact to the State of Iowa because it could provide a more cost-effective alternative to closing a registered agricultural drainage well.

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 27—Chapter 8.

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 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 30.50(1) as follows:

30.50(1) *Cost-share rate.* ~~Cost-share~~ Except for the cost of wetland restoration projects with permanent easements, cost-share payments from the fund shall not exceed 75 percent of the estimated cost or 75 percent of the actual cost of the project, whichever is less.

ITEM 2. Adopt the following **new** paragraphs **30.50(2)"g"** and **"h"**:

g. Costs for the purchase of permanent easements for the wetland restoration if the easements are more cost-effective than the construction of alternative drainage systems and all directly impacted landowners agree to grant permanent easements.

h. Construction costs for wetland restoration projects with permanent easements including, but not limited to:

(1) Tile modifications.

(2) Installation of water level maintenance structures.

(3) Associated excavation, grading and seeding activities.

ITEM 3. Amend subrules 30.50(3) and 30.50(4) as follows:

30.50(3) *Project design and construction.* The alternative drainage system of the drainage district or the wetland restoration shall be designed to meet standard engineering practice ~~for drainage district improvements~~ and be approved by the division. Construction shall be in accordance with the design and standard construction practice for drainage district improvements or the wetland restoration.

30.50(4) ~~*Noncrop acres*~~ *Easement purchases*. ~~Noncrop acres within a designated agricultural drainage well area shall not be eligible to benefit from the program.~~ For projects where wetland restoration is completed, a permanent easement restricting active disturbance of the easement area including cropland and pasture uses shall be granted to the applicable soil and water conservation district. The value of the easement is determined by using the average farmland value per acre for all soil types as determined by the most recently published county land value survey developed by Iowa State University adjusted by the value of any existing easements on the land.

ITEM 4. Rescind and reserve **27—Chapter 101**.

ITEM 5. Rescind and reserve **27—Chapter 102**.

ITEM 6. Rescind and reserve **27—Chapter 103**.

ITEM 7. Rescind and reserve **27—Chapter 104**.

ITEM 8. Rescind and reserve **27—Chapter 105**.

ITEM 9. Rescind and reserve **27—Chapter 106**.

ITEM 10. Rescind and reserve **27—Chapter 107**.

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ARC 3840C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to federal motor carrier safety and hazardous materials regulations

The Department of Transportation hereby amends Chapter 520, "Regulations Applicable to Carriers," Chapter 529, "For-Hire Interstate Motor Carrier Authority," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 307.27, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.188, 321.449, 321.450 and 327B.1.

Purpose and Summary

The amendments are part of the regular, annual update by the Department to adopt the most recent updates to the federal regulations published by the Federal Motor Carrier Safety Administration and the Pipeline and Hazardous Materials Safety Administration.

Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver's licenses in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399.

Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The amendments to Chapter 520 adopt the current CFR dated October 1, 2017, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399.

The amendments to Chapter 529 adopt the current CFR dated October 1, 2017, for 49 CFR Parts 365 to 368 and 370 to 379 and update the responsible office name from the office of vehicle services to the office of vehicle and motor carrier services.

The amendment to Chapter 607 adopts the current CFR dated October 1, 2017, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR.

To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2017 edition of the CFR and that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Parts 365, 370, 373, 374, 376, 377, 378, 383, 385, 390-392, 395, 397 and 398 (FR Vol. 81, No. 192, Pages 68336-68359, 10-04-16)

This final rule amends the Federal Motor Carrier Safety Administration's (FMCSA) regulations by making technical corrections throughout. The FMCSA is making minor changes to correct errors and omissions, ensure conformity with Office of the Federal Register style guidelines, update cross references, and improve clarity and consistency of certain regulatory provisions. Further, this set of amendments removes all remaining instances of the term "common carrier" and "contract carrier" as required by the Interstate Commerce Commission Termination Act and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This rule does not make any substantive changes to the affected regulations, except to remove obsolete provisions. Effective date: September 30, 2016.

Part 383 (FR Vol. 81, No. 198, Pages 70634-70646, 10-13-16)

This final rule amends FMCSA regulations to ease the transition of military personnel into civilian careers driving commercial motor vehicles (CMV) by simplifying the process of obtaining a commercial learner's permit (CLP) or commercial driver's license (CDL). This final rule extends the period of time for applying for a skills test waiver from 90 days to one year after leaving a military position requiring the operation of a commercial motor vehicle (CMV). This final rule also allows a state to accept applications from active duty military personnel who are stationed in that state as well as administer the written and skills tests for a CLP or CDL. States that choose to accept such applications are required to transmit the test results electronically to the state of domicile of the military personnel. The state of domicile may issue the CLP or CDL on the basis of those results. Effective date: December 12, 2016.

Parts 383 and 391 (FR Vol. 81, No. 233, Pages 87686-87731, 12-05-16)

This final rule amends the FMCSRs to establish requirements for the Commercial Driver's License Drug and Alcohol Clearinghouse, a database under the FMCSA that will contain information about violations of FMCSA's drug and alcohol testing program for the holders of CDLs. This rule is mandated by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and will improve roadway safety by identifying CMV drivers who have committed drug and alcohol violations that render them ineligible to operate a CMV. Effective date: January 4, 2017. Compliance date: January 6, 2020.

Part 383 (FR Vol. 81, No. 236, Pages 88732-88803, 12-08-16)

This final rule amends FMCSA regulations to establish new minimum training standards for certain individuals applying for their CDL for the first time, an upgrade of their CDL (e.g., a Class B CDL holder seeking a Class A CDL), or a hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time. These individuals are subject to the entry-level driver training requirements and must complete a prescribed program of instruction provided by an entity that is listed on FMCSA's Training Provider Registry. FMCSA will submit training certification information to the state driver licensing agency, which may only administer CDL skills tests to applicants for the Class A and B CDL, or the P or S endorsements, or knowledge test for the H endorsement, after verifying the certification information is present in the driver's record. Effective date: February 6, 2017. Revised effective date: June 5, 2017. Compliance date: February 7, 2020.

Parts 365, 366, 368, 385 and 390 (FR Vol. 82, No. 10, Pages 5292-5318, 01-17-17)

This final rule suspends FMCSRs requiring existing interstate motor carriers, freight forwarders, brokers, intermodal equipment providers, hazardous materials safety permit applicants, and cargo tank facilities under FMCSA jurisdiction to submit required registration and biennial update information to the FMCSA via a new electronic online Unified Registration System. During this suspension, entities needing to file will follow the same procedures and forms used to submit information to FMCSA as they do today. Effective date: January 14, 2017.

Parts 107, 171-173, 178 and 180 (FR Vol. 82, No. 60, Pages 15796-15897, 03-30-17)

This Pipeline and Hazardous Materials Safety Administration (PHMSA) final rule amends the HMR to maintain consistency with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the HMR with changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations. Additionally, PHMSA is adopting several amendments to the HMR that result from coordination with Canada under the U.S.-Canada Regulatory Cooperation Council. Effective date: March 30, 2017, except for instruction 22 on page 15876, which is effective January 2, 2019. Voluntary compliance date: January 1, 2017. Delayed compliance date: Unless otherwise specified, January 1, 2018.

Part 390 (FR Vol. 82, No. 115, Pages 27766-27767, 06-16-17)

This final rule extends by one year the compliance date of FMCSA regulations established in the final rule on lease and interchange of passenger-carrying CMVs published on May 27, 2015, and effective on July 27, 2015. The new compliance date is January 1, 2019. The FMCSA received numerous petitions for reconsideration of the final rule and extended the original January 1, 2017, compliance date to January 1, 2018, to provide time to address the issues raised by the petitioners. As a result of a public meeting with representatives of the passenger carrier industry in October 2016 and further analysis of the petitions for reconsideration, the FMCSA is extending the compliance date by an additional 12 months to allow time to revise the regulations, while ensuring that carriers have ample time to adjust to the requirements of the revisions. Effective date: June 16, 2017, until January 1, 2019. Compliance date: The compliance date for the requirements in Subpart F to 49 CFR Part 390 (Sections 390.301, 390.303, and 390.305) is extended until 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 March 28, 2018, as **ARC 3700C**. No public comments or requests for oral presentations were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on May 9, 2018.

Fiscal Impact

The fiscal impact cannot be determined. The federal regulations to be adopted by this action were subject to fiscal impact review by either the FMCSA or the PHMSA when enacted and were determined not to be cost-prohibitive.

Jobs Impact

The amendments may have a slight impact on motor carrier operations; however, the amendments should not negatively impact jobs or employment opportunities because the regulations adopted align the rules to federal regulations and bring uniformity and consistency to the industry, which should have a positive impact on employment.

Waivers

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the Nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

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 11, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **520.1(1)"a"** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2016~~ 2017).

ITEM 2. Amend paragraph **520.1(1)"b"** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2016~~ 2017).

ITEM 3. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2016~~ 2017, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at http://www.fmcsa.dot.gov.

ITEM 4. Amend rule 761—529.2(327B) as follows:

761—529.2(327B) Registering interstate authority in Iowa. Registration for interstate exempt and nonexempt authority shall be either mailed to the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257.

ITEM 5. Amend paragraph **607.10(1)"c"** as follows:

c. The following portions of 49 CFR Part 383 (October 1, ~~2016~~ 2017):

(1) Section 383.51, Disqualification of drivers.

(2) Subpart E—Testing and Licensing Procedures.

(3) Subpart G—Required Knowledge and Skills.

(4) Subpart H—Tests.

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